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# **ECONOMIC INCLUSION OF LGBTQI PEOPLE IN SOUTHEAST ASIA**

A Background Research Report on Cambodia, Indonesia, Lao PDR and the Philippines





# Economic Inclusion of LGBTQI People in Southeast Asia

A Background Research Report on Cambodia,  
Indonesia, Lao PDR and the Philippines



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# 1. Introduction and Acknowledgements

This report aims to provide an overview and analysis of the state of economic inclusion of LGBTQI people in the South East Asia region with a focus on Cambodia, Indonesia, Lao PDR, and the Philippines. It offers preliminary evidence of the challenges that LGBTQI people face and discusses the impact on LGTBQI people and the communities, countries and economies in which they live.

The report also identifies advocacy opportunities for multisector cooperation to increase LGBTQI economic and social participation and suggests potential entry points for stakeholder engagement with governments, multilateral development banks and the private sector. It contains a number of recommendations to design, strengthen and implement policies, practices and programmes to increase LGBTQI economic participation and to contribute to addressing structural barriers for economic and social inclusion and participation for LGBTQI communities.

APCOM also acknowledges the limitations of this report. The data gathering was undertaken in 2018 and thus, there might be new data and information available which are not included in this report.

This report has been prepared by APCOM <sup>1</sup> in collaboration with Walter Gomez Velarde, an independent researcher, who undertook the scoping research and literature review in the four countries. APCOM would also like to thank Klaus Dik Nielsen who edited this report.

APCOM would also like to express its sincere thanks to Voice <sup>2</sup>, our funding partner for Finance Inc. project<sup>3</sup>, under which this research report was done.

APCOM has final responsibility for the content of this report, including any errors or misrepresentations.





## Rationale and next steps

The report is part of Finance Inc. - a three- year multi-country initiative (2018-2020) which aims to engage the private sector and financial institutions focused on international development in the Asia Pacific region to be more inclusive of LGBTQI people's needs, concerns and potential.

Narratives of stigma and discrimination based on sexual orientation and gender identities of LGBTQI people abound globally. These narratives are replete with experiences of challenges and issues in enjoying basic economic, social and cultural rights including rights to employment, education, health care and access to economic participation and financial resources.

The World Bank states that *'despite some legal and social advances in the past two decades, lesbian, gay, bisexual, transgender, and intersex (LGBTI) people continue to face widespread discrimination and violence in many countries. This discrimination and violence lead to exclusion, and this exclusion has adverse impacts on both the lives of LGBTI people as well as on the communities and economies in which they live'*<sup>4</sup>. The World Bank has also stated that *"increasing evidence indicates that LGBTI people suffer lower education outcomes due to discrimination, bullying and violence; higher unemployment rates; and a lack of access to adequate housing and health services and financial services"*<sup>5</sup>

Engaging financial institutions and the private sector on LGBTQI inclusion is one of the strategic directions which APCOM is pursuing to advance our vision of *'a world where all gay men, other men who have sex with men, and people of diverse sexual orientation, gender identities and expressions, and sex characteristics can fully participate in and achieve sustainable development in all aspects of their health, rights, and wellbeing'*. APCOM believes that such engagements will contribute to the goal of 'leaving no one behind.'

To better understand the institutions and sectors which we wished to engage with under Finance Inc., APCOM deemed it necessary to conduct preliminary research aimed to help us, our country partners better understand the situation of LGTBQI inclusion/exclusion in the countries where we are implementing the project; the institutions, other stakeholders and the sectors we wanted to engage with on LGBTQI inclusion, and to identify possible entry points for such engagements. This research report was instrumental in guiding the activities APCOM and our country partner organizations have undertaken under Finance Inc. which included advocacy, partnership building, and capacity building, with our partner organisations in Cambodia, Indonesia, Laos and the Philippines.

Founded in 2007, APCOM Foundation (APCOM) is a Bangkok based not-for-profit organization representing and working with a network of individuals and community-based organisations across the Asia and the Pacific region. APCOM works to improve the health and rights of gay men, other men who have sex with men, and people and communities of diverse sexual orientation, gender identities and sex characteristics (SOGIESC) in the Asia and the Pacific region.

APCOM has a primary focus on HIV because it is a key health issue for gay men and other men who have sex with men in Asia and the Pacific region. APCOM aims to contribute to addressing other related health issues for our communities such as sexual health, mental health and drug use. APCOM also focuses on improving relevant human and legal rights across the region as discrimination, stigma, criminalisation and exclusion impact on the health outcomes of the communities we serve.

## 2. Executive Summary

This scoping research was carried out from May-July 2018 and mainly relies on existing and available data related to economic inclusion and exclusion of LGBTQI people, looking primarily at the domains of employment, education and health. It outlines national, regional and international legislative and institutional frameworks within which current challenges and opportunities for LGBTQI social and economic inclusion are analysed. Thus, recent available data and developments related to the research focus are not included in this research report.

Overall, the report finds that even as equality and non-discrimination are cornerstones of international human rights instruments and other international frameworks and agreements, LGBTQI people and communities in Cambodia, Indonesia, Lao PDR and the Philippines still experience economic and social exclusion

While voices have increased, there remains a lot to be done for the advancement of LGBTQI rights. However, there are opportunities for governments, multilateral development banks, NGOs, the private sector and other stakeholders to advance LGBTQI rights in the region, at local, national, regional and international level.

There are attempts in Indonesia at bringing back conversations on criminalising homosexuality. While the country has made efforts to foster human rights, LGBTQI issues are continuously dismissed despite recurring international recommendations on incorporating more accepting policies and practices. The Philippines, has shown indications in favour of equality in recent years. The House of Representatives passed the Anti-Discrimination Bill which has been in the legislative mill since 2002. However, because of oppositions, a national law has yet to be enacted.

Cambodia has seen recent declarations by their king supporting LGBTQI acceptance, but continues to LGBTQI communities still experience challenges. Cambodia's LGBTQI people are "invisible" in the country's policies, and declarations made by some officials show that there is a lack of knowledge of the situation of LGBTQI populations, which affects creation of LGBTQI-targeted policies, practices and programmes.

Lao PDR shows a more unclear situation, a consequence of limited information and the overall limited discourse on LGBTQI, and human rights. Lack of information on LGBTQI may not be necessarily due to an overt opposition to non-normative SOGIESC, but because of the overall challenges in the human rights situation.

## Discrimination, violence, harassment, exclusion and stigma in the workplace, educational settings and health services

Discrimination, violence, harassment, exclusion and stigma in the workplace, educational settings and health services continue to affect the LGBTQI population which, according to World Bank estimates, are overrepresented in the bottom 40 per of the population <sup>6</sup>

### Workplace

None of the four countries has legislation against LGBTQI discrimination in the workplace. Indonesia and Cambodia are very clear on adopting a binary female-male interpretation of gender in their anti-discrimination policies. Lao PDR prohibits discrimination of persons with HIV, but without explicitly mentioning LGBTQI.

Evidence in these four countries show that non-heteronormative LGBTQI individuals face discrimination in the workplace which affect their possibilities for getting or keeping a job, especially those whose gender expression or identity do not match the normative roles and expectations. Discrimination ranges from reduced opportunities for improvement of working conditions, promotions and benefits, to verbal and physical bullying, sexual harassment and differential treatment. Lesbians and transgender face even harder discrimination for being forthcoming on their divergence from accepted normative gender behaviour. Consequently, some resort to hiding their true self to not lose opportunities and being discriminated against, causing them great amounts of challenges for living double lives.



## Education

Sex and sexuality are generally not discussed as part of the curriculum in the four countries, and when where there is discussion, it is limited. Considering that sexuality is still a taboo topic, lack of information regarding SOGIESC contributes to stigma and discrimination. Some educational institutions who enjoy a high degree of autonomy on how to operate their educational settings, go as far as enacting policies that suppress any non-normative SOGIESC behaviour. Consequently, those who do not conform to what it is normative, suffer from bullying from fellow students, teachers and the educational system at large.

Out of the four countries, only the Philippines has a specific education related policy with reference to prevention of SOGIESC-based bullying and promote teaching and learning on social aspects of sexuality.

## Health

No country has LGBTQI anti-discrimination policies in relation to health and SOGIESC. Historically, health policies touch on LGBTQI issues when referring to HIV prevention. There is still a lack of knowledge and understanding of particularities of the LGBTQI population, assigning same treatment to everyone, resulting in insensitivity to a person's SOGIESC. Lack of comprehensive services and counselling directed at LGBTQI populations is not only pertaining to HIV, but to overall services, particularly in mental health. LGBTQI people face higher stress related to not being accepted in society, yet very few services are LGBTQI-sensitive. On the contrary, some health facilities and services discriminate and stigmatise LGBTQI populations. Few can get help when needed, but many are rejected because of non-acceptance of different SOGIESC.

Access to and availability of services for transgender people remain a challenge. Services specific to and sensitive to the needs of transgender men and women are still largely not available in their countries of origin. Further, accessibility and the inavailability of these services are compounded as in some cases, there is still stigma attached to being a transgender person. Lesbian women face double discrimination as women and lesbians, not being able to access sexual health for not conforming to societal rules of traditional marriage.

## Recommendations

This report contains a number of recommendations towards government, multilateral development banks, with a particular focus on the ADB, the private sector and organisations toward a more inclusive policies, programs, and processes.

There is a need to significantly increase LGBTQI inclusion initiatives by governments, among local, regional and international organisations, and in the public and private sectors. While NGOs and CSOs have made great efforts and come some way with LGBTQI advocacy, they still face many challenges in areas of sustainability, technical expertise, access to and development of data, networking, and opposition from governments and some sectors of the general public.

Organisations such as the World Bank and the United Nations, among others, have undertaken pro-grams and initiatives for LGBTQI inclusion in the region. The "Being LGBTI in Asia" series, a 2014 series of reports aiming at providing general background and knowledge of the situation of LGBTQI in many Asian countries, serves as an example of the United Nations effort to increase knowledge of their situation in the studied countries and has been a basis for advocating with governments for more LGBTQI-inclusive programs and policies.

Other multilateral development and financial institutions in the region present opportunities for engagement for more LGBTQI inclusion in the finance and development sector. Specifically, the Asian Development Bank, being an important financial institution present in the region can play an important role in the economic inclusion of LGBTQI people and communities in the region.



The Asian Development Bank's "**Strategy 2030**" provides a significant number of entry points for LGBTQI inclusion. This research has outlined the potential of the ADB to expand its commitment and aspirations and anchor LGBTQI inclusion in their "Strategy 2030", and to integrate LGBTQI issues into their relevant processes, formulation of policies and implementation of practices geared towards economic inclusion, participation and development.

Below are some overall recommendations. For the full set of recommendations, please go to pages 45-47:

**1. Enactment of non-discriminatory laws and inclusive policies.**

These laws can range from equality and non-discrimination laws to legislations addressing SOGIESC based discrimination and exclusion in the domains of health, employment, and education.

Governments should ensure that all members of society are protected and that laws should not leave anyone behind.

**2. Partnerships between financial institutions, the private sector and LGBTQI organizations and communities should be fostered and strengthened.** These can include awareness raising, crafting and implementation of LGBTQI inclusive and non-discriminatory policies, programs and practices.

LGBTQI organisations and other NGOs and stakeholders working on equality and non-discrimination should engage with financial institutions and the private sector to advocate for a greater level of LGBTQI inclusion their policies, operations and procedures. This will ensure that LGBTQI people become and remain an integral part of economic development initiatives in the region.

**3. Identify and highlight good practices related to LGBTQI inclusion in the private sector.** Inclusive policies and practices result not only in the well-being and dignity of individual employees, it also raises productivity significantly. Highlighting these policies and practices will contribute to a wider practice of LGBTQI inclusion in the sector.

**4. Continue and intensify multi sectoral awareness raising about diversity, SOGIESC, and inclusion.** These should target sectors which have not been reached by such activities. Awareness raising activities will contribute to more discussions about equality and non-discrimination, diversity and inclusion.

**5. Partnerships should be fostered between the private and public sectors, academic institutions and organisations working on LGBTQI rights for more rigorous research to improve and expand available data and information on LGBTQI inclusion.** This will address the gaps in quantitative and qualitative data on LGBTQI economic inclusion and exclusion in the Asia-Pacific. These data will inform programs aimed to address and improve the situation of LGBTQI populations in the region.

In addition, the research capacity of LGBTQI organisations should be built so that they can be meaningfully involved in and carry out much needed research activities themselves.

**6. The "Strategy 2030" of the Asian Development Bank provides for entry points for LGBTQI inclusion.** LGBTQI inclusion at the Asian Development Bank can be anchored on 'Strategy 2030' and in their operations. This would ensure that LGBTQI people and issues become an integral part in the bank's economic development initiatives in the region.



### 3. Research Methodology and Definitions and Terminology

#### Research methodology and limitations

The report relies on existing research from various sources including data from governments, international organisations, NGOs, CSOs, and news reports and comprises analysis on available data and information in the four studied countries.

While we have attempted to provide a solid and comprehensive overview, there are limitations to this report. A major obstacle has been the limited quantitative information available on LGBTQI economic inclusion, and inclusion in general, in addition to a limited number of qualitative data. Lack of acknowledgement and acceptance of LGBTQI as a relevant issue to be studied in the four countries has also resulted in a scarcity of information sources.

Moreover, as the data gathering was undertaken in 2018 there might be new data and information available which are not included in this report.

#### Definitions and terminology

#### Economic Inclusion

We are using the definition of the European Bank for Reconstruction and Development: “Economic inclusion, the opening up of economic opportunities to underserved social group, is integral to [...] sustainable market economies. An inclusive market economy ensures that anyone regardless of their gender, place of birth, family background, age or other circumstances, over which they have no control, has full and fair access to labour markets, finance and entrepreneurship and, more generally, economic opportunity.”<sup>7</sup>

#### Social Inclusion

The process by which efforts are made to ensure equal opportunities – that everyone, regardless of their background – can achieve their full potential in life. Such efforts include policies, practices and actions that promote equal access to (public) services as well as enable citizen’s and residents’ participation in the decisionmaking processes that affect their lives.<sup>8</sup>

#### Exclusion

In defining exclusion, we take inspiration from the definition used by Prof. Lee Badgett as ‘the structural manifestations of stigma in institutional settings, reducing LGBT people’s access to equal treatment and participation in a wide range of social institutions, including schools, workplaces, health care settings, the political process, the financial system, the criminal justice system, families, government programs, and other laws and policies’.<sup>9</sup>

#### Financial Inclusion

We are using The World Bank definition: Financial inclusion means that individuals and businesses have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit and insurance – delivered in a responsible and sustainable way.”<sup>10</sup>

#### LGBTQI

We are using the acronym LGBTQI to refer to lesbians, gays, bisexuals, transgender, queer, and intersex people and communities. APCOM recognises that there is diversity across cultures and country contexts in the use of those and related terms.

We are basing our terminology on the Yogyakarta Principles +10<sup>11</sup> and use the abbreviation SOGIESC to describe sexual orientation, gender identity, gender expression, and sex characteristics collectively.

APCOM is aware that reflections of and terms used to refer to LGBTQI varies from one country to another.



## SOGIESC

**Sexual Orientation** - each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender

**Gender Identity** - each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms

**Gender Expression** - each person's presentation of the person's gender through physical appearance – including dress, hairstyles, accessories, cosmetics – and mannerisms, speech, behavioural patterns, names and personal references, may or may not conform to a person's gender identity

**Sex Characteristics** - each person's physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty.

**MSM:** men who have sex with men





## 4. Existing human rights frameworks for LGBTQI Rights and Economic Inclusion

Equality and non-discrimination are cornerstones of international human rights instruments and other international frameworks and agreements. While, LGBTQI inclusion is not expressly included in some international agreements, including the Sustainable Development Goals (SDGs), the principle of equality and non-discrimination in all human rights instruments and the 'leaving no one behind', of the SDGs, given ample opportunity to make the case of LGBTQI inclusion.

Around the globe, 72 countries and territories continue to criminalise same-sex relationships, including 45 in which sexual relationships between women are outlawed. On the other hand, more than 120 countries have decriminalised homosexuality<sup>12</sup>. This does not mean that these countries can be described as liberal, or that discrimination has ceased to exist. Russia has recently introduced laws banning the promotion of homosexuality, Indonesia is looking to recriminalise homosexuality, and Brazil has one of the highest amounts of hate crimes committed against LGBTQI in the world, despite hosting one of the biggest LGBTQI prides in the world. In addition, there are dozens of countries that do not protect their LGBTQI populations by not adopting anti-discrimination laws, or by failing to provide their LGBTQI populations with equal rights. While international organisations have adopted many agreements in favour of LGBTQI rights, numerous countries fail to recognise and support these agreements, in spite of their adherence to international standards and procedures.



### International Human Rights Instruments

There are a number of international conventions and agreements that support advocacy for more LGBTQI-economic inclusive policies. The Human Rights framework for LGBTQI rights starts with the Universal Declaration of Human Rights (UDHR). The essence of SOGIESC related subjects is in Article I which states: "All human beings are born free and equal in dignity and rights." In addition to the UDHR there have been important advancements of international conventions and treaties which have positively influenced LGBTQI rights in South East Asia thanks to the following international conventions, agreements, and processes:

**Some International Conventions, Treaties, Agreements and principles:** The table below contains the some of the most important human rights instruments that sets a base for LGBTQI rights.



Human Rights Instrument	Description
Universal Declaration of Human Rights(UDHR) <sup>13</sup>	Historic document adopted by the United Nations General Assembly on 1948 as a universal common standard of international laws that promotes the essence that “all human beings are born free and equal in dignity and rights” and is the origin to other Human Rights instruments.
International Covenant on Economic, Social and Cultural Rights (ICESCR) <sup>14</sup>	Multilateral treaty adopted in 1966 by the United Nations General Assembly. It brings from the UDHR a focus for commitment to promoting Economic, Social and Cultural rights to all the parties involved. It is part of the International Bill of Human Rights and includes rights to labor, health, education and an adequate standard of living.
International Covenant on Civil and Political Rights (ICCPR) <sup>15</sup>	Multilateral treaty adopted in 1966 together with the ICESCR, it is also part of the International Bill of Human Rights. It brings from the UDHR a focus for commitment to promoting civil and political rights including the rights to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.
Declaration of Human Duties and Responsibilities(DHRD) <sup>16</sup>	Proclaimed in 1998 commemorating the 50th anniversary of the UDHR. Due to the lack of political interest and commitment from states to the various human instruments brought to that date, it focuses on the effectiveness of enjoyment and implementation of human rights through an established set of duties and responsibilities.
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) <sup>17</sup>	Treaty established by the United Nations General Assembly in 1979. It was formulated from the concern that despite various instruments were established, strong discrimination against women was still taking place. Article 1 outlines non-discriminatory rights. Article 11 outlines the work rights. Article 12 outlines health rights. All these reflect rights for the lesbian, bi and trans (LBT) communities.
Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (CAT) <sup>18</sup>	Established by the United Nations General Assembly in 1984, it works towards the enforcement of member states to prevent torture and other forms of cruel, inhuman or degrading treatment or punishment. It protects the LGBTI community who has been vulnerable throughout the years from prosecution due to sexual orientation and identity.
Yogyakarta Principles <sup>19</sup>	In 2006, in response to well-documented patterns of abuse, a distinguished group of international human rights experts met in Yogyakarta, Indonesia to outline a set of international principles relating to sexual orientation and gender identity. The result was the Yogyakarta Principles: a universal guide to human rights which affirm binding international legal standards with which all States must comply. They promise a different future where all people born free and equal in dignity and rights can fulfill that precious birthright.
ASEAN Human Rights Declaration (AHRD) <sup>20</sup>	Treaty adopted in 2012 unanimously by the Association of Southeast Asian Nations at their meeting in Phnom Penh, Cambodia. It reaffirms on the UDHR. Article 1 states “All persons are born free and equal in dignity and rights” which should introduce the LGBTI community into this treaty but was deliberately excluded because of political context, which will be analyzed further in the report. Article 26-27 focuses on economic opportunities, Article 29 onHealth, and Article 31 on education.

- The Sustainable Development Goals (SDGs), by the UN, are a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity, goals to be achieved by 2030. As Jean Freedberg, deputy director of Human Rights Campaign Global, states in her article in The Advocate<sup>21</sup>, there is no direct mention of the words “LGBTQI”, “sexual orientation” or “gender identity” in the SDGs due to opposition by a number of countries including Russia, The Vatican, most African, Middle Eastern, Asian, and Caribbean countries. On the other hand, there is enough language related to LGBTQI issues pointed out by the descriptions “inclusive”, “for all”, “non-discriminatory” and most importantly by the “**leave no one behind**” motto in many parts of the 2030 Agenda<sup>22</sup>.
- The SDGs also points out important specific goals which relate to the intention of enhancing LGBTQI-inclusive policies, particularly in the education, work and health sectors, as follows:

**Work and Economic Development: SDG8 Decent Work and Economic Growth** by ensuring protecting labor rights and promoting safe and secure working environments for everyone;

**Health: SDG3 Good Health and Well-Being** aim to achieve universal health coverage, including financial risk protection, access to quality and affordable health care services, medicines and vaccines for all;

**Education: SDG4 Q quality Education** ensures that all girls and boys complete free, equitable and quality primary and secondary education, and affordable higher education, eliminating gender disparities;



**Equality and non-discrimination: SDG5 Gender Equality** aims to end all forms of discrimination against all girls and women, this would include lesbian, bisexual, and transgender women;

**SDG10 Reduced Inequalities** aims to empower the bottom percentile of income earners by promoting economic inclusion regardless of sex, race or ethnicity, eliminating discriminatory laws;

**SDG16 Peace and Justice for all** ensures equal access to **justice for all**. Ensures responsive, inclusive, participatory and representative decisionmaking at all levels. Promotes and enforces non-discriminatory laws and policies for sustainable development <sup>23</sup>.

### Universal Periodic Reviews (UPRs)

- Just over a decade ago, the United Nations introduced a process for periodically evaluating the human rights performances of each its Member States. The UPR is a process and mechanism which provides for an opportunity to integrate the situation of the rights of LGBTQI people. The ultimate aim of this mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur. Currently, no other universal mechanism of this kind exists, and it has proven to be of great assistance for Human Rights Defenders (HRDs) and institutions to make countries accountable for their advancements, or kickbacks as the case may be, on quality various human rights issues, including LGBTQI rights.
- The table below <sup>24</sup> summarises the 8 human rights and fundamental freedoms mapped to their corresponding International Conventions and Agreements:

	UDHR	ICCPR	ICESCR	CEDAW	Yogyakarta	AHRD	DHRD	CAT
Right to equality and freedom from discrimination	Art.s 1 and 2	Art. 2(1) and 26	Art. 2(2)	Art. 1	Principle 2	Principles 1 and 2		
Right to work	Art. 23		Art. 6	Art. 11	Principle 12	Art. 27	Art.s 5, 9 and 11	
Prohibition of torture	Art. 5	Art. 7 and 2(3)			Principle 10	Art. 14	Art. 12(2)	Art. 2 & generally
Right to liberty and security of the person	Art. 3	Art. 9		Art. 11(f)	Principle 5	Art. 12	Art. 12(2)	
Right to privacy	Art. 12	Art. 17			Principle 6	Art. 12	Art. 12(2)	
Right to life	Art. 3	Art. 6			Principle 4	Art. 11	Art. 12(2)	
Freedom of opinion and expression	Art. 19	Art. 19			Principle 20	Art. 24	Art.s 6 and 7	
Freedom of peaceful assembly and association	Art. 20	Art.s 21 and 22	Art. 8		Principle 20	Art.s 24 and 27(2)	Art.s 5 and 12	
Right to participate in public life	Art. 21	Art. 25		Art. 7	Principle 25	Art. 25	Art. 8	
Right to participate in the cultural life of the community	Art. 27	Art. 27	Art. 15	Art. 13(c)	Principle 26	Art. 32		

## 5. An Example of the Effects of Economic Exclusion of LGBTQI people On a Country's Economy

### – the case of India

Lee Badgett's 2014 study - "The Economic Cost of Stigma and the Exclusion of LGBT People: A Case Study of India<sup>25</sup>" analyses both the lower economic outputs LGBT populations have as a result of widespread discrimination and the missed economic inputs the country loses as it fails to recognise and protect its LGBTQI populations. Because of a severe lack of research on LGBTQI challenges and marginalisation in the economic sphere, this study provides factual data and highlights the benefits of LGBT-directed policies in India's economic development, which other countries in the region, and beyond, may relate to and draw upon.

Badgett's study, finds that LGBTQI populations face lower outcomes due to work, education and health exclusion<sup>26</sup>. LGBTQI people face limited educational opportunities, as well as harassment and violence in the education system which leads to fewer opportunities to develop human capital for these populations and India.

This disadvantage results in limited economic opportunities in the form of unemployment, underemployment and lower productivity in the workplace. Badgett concludes that exclusion of LGBTQI populations produce economic loss due to loss of potential human capital or the underutilisation of existing human capital. According to the 2011 census in India, third gender respondents<sup>27</sup> are more likely to face work insecurity. Only 38 per cent of third gender respondents were in employment, and only 65 per cent of the working LGBTQI population were employed for at least six months per year, compared to 75 per cent of the general working population in India. Badgett also highlights that economic costs of stigma and discrimination are greater for transgender people and their families.

Stigma makes it less likely for an LGBTQI Indian person to be open about their gender identity to their managers and coworkers which can lead to economic losses as the non-disclosure of an LGBTQI person's identity negatively affects their performance at work. Evidence suggests that positive connections exist between less discrimination, more identity disclosure, and higher productivity.

Other studies conducted find a higher prevalence of depression, suicide and HIV infection among the Indian LGBTQI population. The pressure of marrying a different-sex partner is high in India and leads to stress and reduced social freedom. Some reports find that depression and suicidal thoughts are higher between married lesbian and bisexual women and that LGBTQI people are more likely to contract HIV than any other person in India.<sup>28</sup>

Badgett finds that inclusion of LGBTQI people would reduce economic costs, as it could lead to an increase in "productivity of existing workers, greater investment in human capital and better health" generating more economic revenues. Improving the LGBTQI population's access to health would result in 'reducing the transmission of disease or freeing up health care resources to treat other conditions.'<sup>29</sup> The inclusion of LGBTQI people would also attract foreign businesses to invest in India.

## 6. The State of Economic Inclusion of LGBTQI People: Cambodia, Indonesia, Lao PDR and the Philippines

Traditional values have a strong base in Southeast Asia. While there are no explicit definitions of “traditional values” there are certain common characteristics: the centrality of religion for maintaining morality in society; the need to preserve the family and protect children; and the imperative of upholding “natural” gender roles. According to Wilkinson et al. (2017), these traditional perceptions of life underline a strongly patriarchal, heteronormative and theocratic vision of the world, explaining the many explicitly homophobic, transphobic and anti-feminist stances that “traditional values” advocates for on the basis of moral judgments<sup>30</sup>.

Acceptance of non-normative sexual and identity behaviour is evident in the history of the four countries studied, but which has change over time. For example, gender non-conformity in the Philippines predates the arrival of the Spaniards in 1521. This was exemplified by the babaylan, T, who were spiritual leaders during the pre-colonial Philippines. While said to connote a woman, there were also those who were male at birth, who not only put on women’s clothing but also ‘assumed the demeanor of women’and the spirits listened to their prayers. These babaylans were highly esteemed in pre-colonial societies<sup>31</sup>. In Indonesia, diverse sexual behaviours among men are known to have been practiced in the context of performing and martial arts, spirit medium and shamanistic rituals, a rite of passage initiations or in daily life in all-male settings. Similarly, legends of intersexed deities are known, and diverse gender expressions and identities have been common and tolerated in many ethnic communities<sup>32</sup>. In Cambodia, an account written by a visiting Chinese diplomat in 1296 describes men wearing women’s clothing in the Angkor Wat area. Interestingly, Cambodia’s former King, His Majesty King Father Norodom Sihanouk, expressed his support of same-sex relations in 2004<sup>33</sup>.

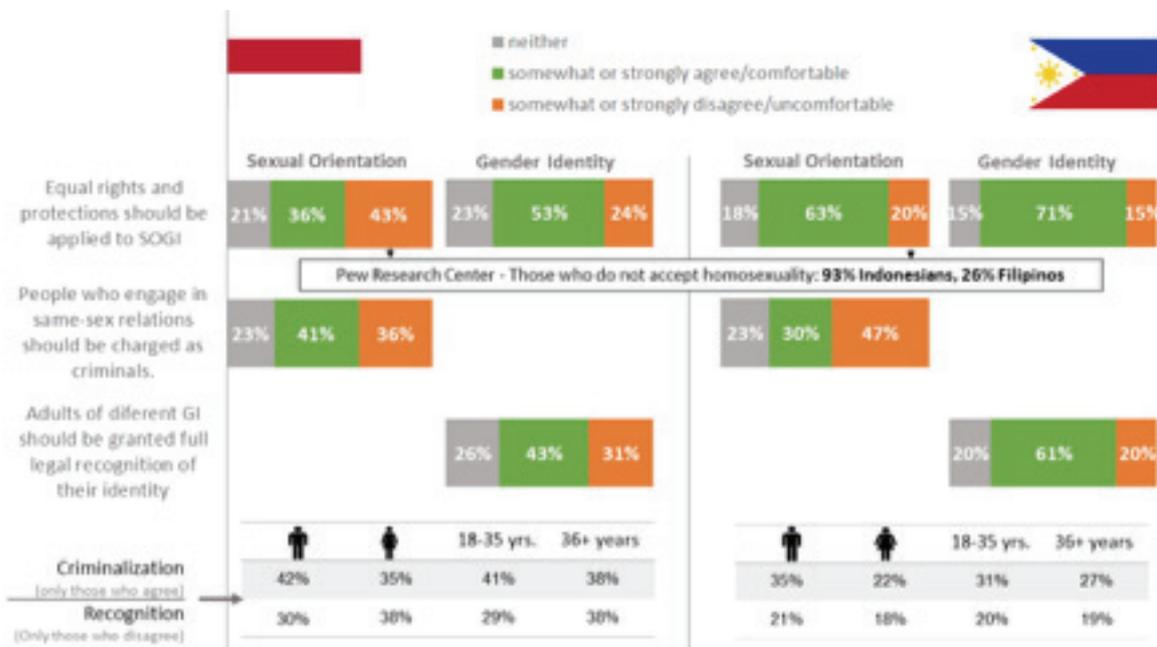
Despite examples of acceptance of non-normative SOGIESC, traditional values are prevailing in the current political, economic, social and cultural environment in many Southeast Asian countries enabling the legitimization of discrimination against LGBTQI people and anyone whose sexuality and/or gender is non-normative<sup>34</sup>. In Indonesia where the current political regime adheres to “traditional values” in a religiously influenced society, many LGBTQI people remain closeted for fear of being stigmatised, and not being able to obtain or maintain a job. LGBTQI people whose SOGIESC is not evident in their appearance face less harassment, bullying, and discrimination than those who diverge from the expected norm



## Attitudes and Acceptance

The 2017 ILGA-RIWI Global Attitudes Survey<sup>35</sup> on sexual, gender and sex minorities reported perception on LGBTQI individuals in 75 countries, including Indonesia and the Philippines. Among the four studied countries in this report, these two show the most opposing views regarding acceptance of non-traditional SOGIESC. Data shows that in Indonesia 43 per cent of the population disagree that people with a different sexual orientation should enjoy equal rights and protection, contrasting with only 20 per cent in the Philippines. These results, however, contrast significantly with the 2013 Pew Research Center results. When asked if society should accept homosexuality, 93 per cent of Indonesians responded “No” (acceptance remains unchanged since 2007), against 26 per cent in the Philippines<sup>36</sup>. Despite the different wording of questions, which may explain the differing results, the Pew Research Center results, while older, may provide more accurate results because of the surveying method (face-to-face vs online for the ILGA survey). According to the ILGA-RIWI survey, 41 per cent Indonesians believe that people who engage in same-sex relations should be charged as criminals, while in the Philippines the number is 30 per cent. Interestingly, there is more support for gender identity rights in both countries. When asked if adults of different gender identity should be granted full legal recognition of their identity, one-third of Indonesians (31 per cent) disagreed, compared to 20 per cent of Filipinos. When analysing numbers by gender and age the Philippines shows a clear distinction on liberal attitudes, where the young generation and women are more willing to accept same-sex behaviour and gender identity, although gender identity is mostly accepted within all demographics.

**Graph 01**  
 Acceptance of LGBTI population in The Philippines and Indonesia (Percentage)



**Source:** ILGA-RIWI Global Attitudes Survey (2017) & Pew Research Center Global Divide on Homosexuality (2013).



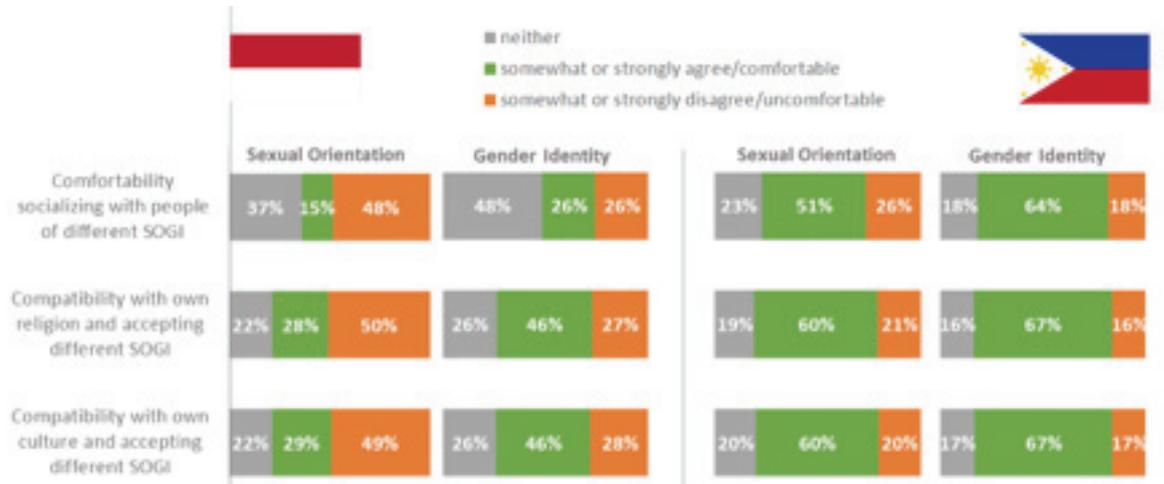
One of the reasons for negative attitudes towards non-normative SOGIESC lies within religion. However, religion stances on SOGIESC differ across the region. While Indonesia and the Philippines may share similar religious antagonism towards alternative sexualities and gender identities, Cambodia's discrimination against LGBTQI individuals has little to do with religion. In Indonesia, the population predominantly interprets the Muslim and Christian faith in a traditional manner which disapproves of homosexuality, despite an emergence of more progressive and accepting religious individuals. There are also regional variances with more opposition in conservative provinces dominated by Islamic and Christian teachings. Aceh province represents a particularly challenging situation for having an LGBTQI space at all due to laws based on Shariah, resulting in difficulties in raising LGBTQI issues, let alone discussing anti-LGBTQI local by-laws<sup>37</sup>.

As a result, 50 per cent of Indonesians believe that their own religion and acceptance of a different sexual orientation is incompatible (27 per cent for gender identity). Interestingly, this number differs markedly from Filipinos of whom only 21 per cent believe in the incompatibility between their mostly Catholic religion and acceptance of sexual orientation. The Philippines figures in the Pew Research Center study correlates with the ILGA-RIWI survey and finds that Filipinos are "considerably more tolerant of homosexuality" than the country's "relatively high levels of religiosity would suggest"<sup>38</sup>. Nevertheless, the church opposes efforts to provide legal protection for LGBTQI Filipinos. A particular case is Cambodia, where the dominant religion is Theravada Buddhism. This Buddhist branch is relatively free of homophobia and transphobia and does not distinguish between heterosexuality and homosexuality in its precepts about celibacy and sexual activity.

However, the report also noted that most countries in Southeast Asia have a strong cultural and social influence which negatively impact acceptance of LGBTQI people. In Indonesia 49 per cent of the interviewees reported of incompatibility between their own culture and acceptance of different sexual orientation (28 per cent for gender identity). Many younger gay men from more "accepting" families in the ILO's PRIDE at Work report on Indonesia explained that, although their parents and colleagues knew about their so-called lifestyle, their main concern was that they would still one day get married and have children. It is common for gay men to marry women and have children to maintain societal norms of what is expected of them. Men demonstrate masculinity through heterosexual marriage and fathering children, in order to alleviate societal and family pressure, but at the same time, they maintain their homosexual lifestyle on the side.<sup>39</sup> Lesbians rarely have this kind of flexibility, and they are often expected to develop a sexuality that is geared more towards producing children and fulfilling the needs of husbands<sup>40</sup>. The Philippines shows a more accepting attitude, with only one-fifth of the population seeing as incompatible acceptance of a different sexual orientation and their own culture. LGBTQI Filipinos, however, question the "acceptance" claiming that LGBTQI Filipinos are tolerated only if they fit stereotypes. The Filipino society's tolerance for public displays of transvestism does not equate to wholesale approval of homosexual behaviours<sup>41</sup>. In Cambodia, while religion does not play a significant factor, many problems were reported in terms of negative treatment of LGBTQI people by their families, ranging from being forced to marry, attempted 'cures' for being LGBTQI, family rejection and controlling behavior, in the name of following traditional family values<sup>42</sup>. Cambodians understand gender and sexuality in terms less rigid than Western categories of 'male' and 'female', defining themselves according to their gender norm rather than sexual orientation. The Khmer language does not describe sexual orientation behavior. A person's identity is not based on sexual desires, partners or identity, but on character and personality, believed to be innate. Persons of the male sex can be either feminine (gentle, docile) and masculine (firm, tough). Society may show disapproval of individuals according to their gender norm rather than an LGBTQI identity.

**Graph 02**

**Compatibility of LGBTI and own's societal living in The Philippines and Indonesia (Percentage)**



**Source:** ILGA-RIWI Global Attitudes Survey (2017) & Pew Research Center Global Divide on Homosexuality (2013).

The media had a strong influence on the negative portrayal of LGBTQI people in Southeast Asia, particularly for transgender women. In Indonesia, some media cover LGBTQI issues in a balanced manner, many media outlets cover LGBTQI issues in a sensationalistic, voyeuristic and stigmatising manner (I.e. Pos Kota in Jakarta <sup>43</sup>). Informing the public about LGBTQI people There is also hardline conservative Islamic media (i.e. Republika <sup>44</sup>), taking the categorical view that homosexuality and transgenderism are abominations. In the Philippines, mainstream media is criticised because it stereotypes gay men while limiting media coverage of (or criticising) lesbians and transgender people. Nevertheless, social media has a strong potential to promote LGBTQI rights.

## Legislative and Political Environment

Within Asia, Southeast Asia has shown a greater degree of acceptance to LGBTQI individuals than other states. With only 27 out of 48 allowing same-sex sexual intercourse in Asia as a whole (counting the Middle East), in Southeast Asia there are 7 out of 11 countries where same-sex sexual intercourse is legal. Out of the four countries where same-sex sexual intercourse is illegal, three of them, namely Malaysia, Singapore, and Myanmar rarely enforce the law, and Singapore even hosts a Gay Pride celebration <sup>45</sup>.

All four countries studied in this report do not criminalize same-sex sexual activity. Laos and Cambodia never had any legislation against same-sex sexual activity. The explanation may be found in the two countries' historic acceptance of same-sex relations.

However, even without laws explicitly criminalizing being LGBTQI, there are also no laws which recognize and protect people of diverse SOGIESC. Only certain geographical areas in the Philippines have anti-discrimination laws in employment and in the provision of goods and services. No country allows same-sex marriage or recognises same-sex couples (including civil union), and no country allows step-child or joint adoption by same-sex couples. And, only the Philippines allows LGBTQI people to serve, by law, openly in the military.



## LGBTQI rights in Indonesia

In Indonesia, President Joko Widodo took office in 2014 with public hopes that he would address the human rights deficits of his predecessors. Widodo committed to protect and improve religious freedom, which is of great importance given the harassment and intimidation to religious minorities and LGBTQI populations. However, Widodo's commitment has been questioned after he authorised capital punishment to be used in cases of drug trafficking and with the arrest of separatist protesters<sup>46</sup>.

Indonesian laws generally do not recognise or support the rights of LGBTQI people, even though homosexuality is not criminalised at national level. Currently, homosexuality is criminalised in local ordinances<sup>47</sup> where it is seen as an immoral behavior<sup>48</sup>. But some Indonesian politicians are attempting to criminalise homosexuality, on the grounds that by criminalising adult consensual same-sex conduct, it will protect LGBTQI people against vigilantism. The reasoning behind is that by making same-sex behavior a crime, conservative elements will be placated, "avoiding violent outbursts as members of the public won't resort to attacking"<sup>49</sup>. If passed, the "Kitab Undang-Undang Hukum Pidana (KUHP)"<sup>50</sup> would criminalise same-sex relations and extramarital sex. The changes would also limit free speech and sex education, critics say and civil society organisations and human rights observers have expressed serious concerns about the proposal. In January 2018, police in Aceh – a semiautonomous region in North Sumatra that has adopted sharia law – detained 12 transgender women, cut their hair and forced them to wear "male" clothes in a crackdown against the LGBTQI community. In 2017, two men received 83 cane strokes for consensual gay sex.

This shift comes as no surprise, following the anti-LGBTQI diatribes in 2016, triggered by a parliamentary discussion on same-sex marriage. One MP (a representative from Aceh) suggested the death penalty<sup>51</sup>. The Marriage Law (No. 1/1974)<sup>52</sup> defines marriage as a union between a man and a woman. Police generally fail to protect LGBTQI people from attacks by hardline Islamist activists and some groups who are running 'security rack-ets', and those people who are classified as vagrants for being in public spaces may be subject to abuse and extortion at the hands of officials.<sup>53</sup>

Indonesian law only recognises male and female. While Indonesia does not explicitly prohibit changing one's expression physical appearance to match a person's gender identity, problems can arise when legal documents are required.<sup>54</sup> There are districts with laws against cross-dressing, impersonation or imitation of the opposite sex<sup>55</sup>. Intersexed babies born with visibly ambiguous genitals at major hospitals often undergo corrective surgery if the parents can afford the cost. Those with less visible indicators only approach medical authorities when they are adults and have problems with gender identification<sup>56</sup>.

Policies related to LGBTQI rights vary with some national commissions expressing official support of LGBTQI populations as a result of the HIV epidemic. Progress has been made in LGBTQI rights in the last few years with LGBTQI organisations and individuals participating in national human rights reviews and processes, which has raised awareness of SOGIESC issues. This includes nominations of LGBTQI individuals to the National Human Rights Commission, unsuccessful so far, but not without benefits to the community in raising awareness and galvanizing support. In national and local politics, it is no surprise that there have been no successful openly gay LGBTQI politicians.



## LGBTQI rights in The Philippines

Non-commercial private same-sex activity between consenting adults is not illegal in the Philippines. While same-sex relationships are not recognised, the Supreme Court has invalidated government regulations that infringed on sexual relations of consenting adults, stating that these violated the privacy rights and personal dignity of individuals. LGBTQI Filipinos have a legitimate claim on their right to privacy<sup>57</sup>. While the civil union has been under discussion for some time, 44 per cent Filipinos strongly disagree with a hypothetical law (17 per cent somewhat disagree), and only 8 per cent strongly agree (14 per cent somewhat agree)<sup>58</sup>. In matters of human rights, current President Rodrigo Duterte has been criticised for his confrontational stance on drug related offenses, which is seen to endanger the country's human rights community.<sup>59</sup> In matters of LGBTQI rights, he has also expressed his favour for civil union, but he expressed his position against same-sex marriage in strong terms and referred to the Philippines being a Catholic country<sup>60</sup>.

There are several laws that mention sexual orientation, for example the Magna Carta of Women and the Magna Carta for Public Social Workers or address same-sex relations, as, for example, the Anti-Violence Against Women and Their Children Act which punishes violence in intimate relations including those where both parties are women.<sup>61</sup> There are laws, however, that have reportedly been used to extort and harass LGBTQI people, such as the "grave scandal" prohibition in Article 200 of the Revised Penal Code. Bathhouses frequented by men who have sex with men (MSM) are affected by raids. MSM are threatened of being charged with "grave scandal" of said law and end up paying extortion fees to law enforcement officials for fear of being "outed" to peers and family members.<sup>62</sup>

As a sign of progress, in 2017 the Congress unanimously approved a bill prohibiting discrimination based on sexual orientation, gender identity or expression (SOGIE). Under the bill, people who undertake discriminatory acts<sup>63</sup> can be fined or face imprisonment or both, depending on the court's decision<sup>64,65</sup>. The bill, however, is still not a law, as it is being challenged in the Senate. Chances for enacting the bill into law continue to be slim, as the current president of the Senate, is strongly opposed the passage of the bill.<sup>66</sup>

In the absence of national legislation, some local government approved local anti-discrimination ordinances (ADO), mandating protection from discrimination based on SOGIE/SC. For example, Quezon City passed an ordinance banning employment-related discrimination in 2003. At present, 18 cities, one municipality, three barangays<sup>67</sup>, and six provinces have enacted ADOs<sup>68</sup>, protecting 20 million Filipinos, but leaving 81 million unprotected<sup>69</sup>.

While these ordinances can contribute to a more protective environment to the LGBTQI community in some areas, other laws, such as the RA 9048 (Clerical Error Law of 2001) continues to be a threat to equality. The law makes it illegal for transsexual persons in the Philippines to change their first name and sex in their birth certificates. LGBTQI Filipinos are expected to act in "acceptable" manners, which is usually limited to acting according to socially defined masculine/feminine behaviors. In the Armed Forces of the Philippines (AFP), while the country has zero tolerance for discrimination within military ranks (IGLHRC, 2009), the AFP Code of Ethics has provisions that can be used to discriminate against lesbian and gay members of the military, such as Article 5 (Military Professionalism) Section 4.3 (Unethical Acts) which states homosexuality and lesbianism as a reason for discharge or separation<sup>70</sup>.

There have been positive changes, including the anti-discrimination ordinances in some local government units. The anti-gender-based violence ordinance of Quezon City was extended to LGBTQI people in October 2012. Similarly, in 2011, the Psychological Association of the Philippines (PAP) aligned itself with "global initiatives to remove the stigma of mental illness that has long been associated with diverse sexualities and to promote the wellbeing of LGBTQI people". The PAP Code of Ethics (2010) calls for Filipino psychologists to "respect the diversity among persons and peoples".



## LGBTQI rights in Cambodia

Cambodia's history of conflict has influenced nascent human rights advocacy frameworks and practices. It has been just over 30 years since the first international NGOs began operations in Cambodia, with the first NGO to be recognised only in the 1990s. While civil society is said to be 'robust' they can face restrictions<sup>73</sup>. In 2015, Prime Minister Hun Sen signed a Law on Associations and Non-Governmental Organizations (LANGO), which has been criticized for being vague and restrictive<sup>74</sup>.

LGBTQI rights work, in general, does not face high levels of scrutiny from authorities, but it still needs to find broader support from other NGOs and CSOs. One possible reason is that LGBTQI work is relatively new in the country and that the national policy environment on sexual minorities is not as restrictive as in other countries. While same-sex activities are not a criminal offense, laws and policies in Cambodia are not cognizant of remain by and large silent on LGBTQI people and rights. Cambodia's legal system is relatively neutral for LGBTQI, as it does not have explicit anti-LGBTQI policies, but neither does it recognise LGBTQI people or protects against discrimination. There is no anti-discrimination legislation, sanctions for those who violate the rights of LGBTQI people, or reference to inheritance, tax or family rights issues for LGBTQI people.

The current Civil Code does not state or define the genders of the spouses, as it states under Article 45 that marriage should be conducted between the mutual consent of a husband and a wife. Therefore, some LGBTQI couples have obtained marriage certificates with one recipient identifying as the 'husband' and the other as the 'wife'. It is unclear whether same-sex marriage is legal, or that it is simply not illegal. However, there have been cases of forced marriages of lesbians and transgender men<sup>76</sup>. Further, with no legislation against it, same-sex partners are not prohibited from adopting children. Among this vacuum regarding LGBTQI legislation, transgender people are often not mentioned at all. There is little information available on gender-confirmation surgery/sex-reassignment, gender-affirming and gender-reassignment surgery.

However, there is evident discrimination in some areas of society. There are reports of various laws being used to infringe on the rights of LGBTQI people, including the forced separation of same-sex couples in response to parental demands, and the prejudicial and discriminatory linking of LGBTQI people with social ills such as drug use or sex work. The Being LGBT in Asia: Cambodia Country Report has quoted data from 2009 which indicated the implementation of the law on Human Trafficking and Sexual Exploitation has disproportionately affected LGBT people as arrests of MSM and transgender entertainment workers increased threefold. The report also said that in major tourist areas in Siem Reap, transgender women are barred from entry or are periodically targeted for arrest on suspicion of being thieves<sup>77</sup>.



## LGBTQI rights in Lao PDR

The Constitution of Lao PDR, adopted in 1991 and amended in 2003, states in Article 6 that “The State protects the freedom and democratic rights of the people which cannot be violated by anyone.” Chapter IV of the Constitution (arts. 34-51) provides fundamental rights and duties of its citizens including civil, political, economic, social and cultural rights. However, there are still significant human rights challenges. While there has been progress in poverty reduction, there are still challenges related to discrimination based on ethnic and religious minorities and limitations on freedom of expression. At the same time, as the government has established inter-agency mechanisms to promote and protect human rights, the government still has to act on the establishment of “an independent national human rights institution, in conformity with the Paris Principles”, a recommendation made in 2010 during the Universal Periodic Review (UPR)<sup>78</sup>.

The penal code is also said to contain limitations that prohibit “propagating information or opinions that weaken the state”<sup>80</sup>.

Similar to Cambodia, the government of Laos does not recognise the term LGBTQI, and homosexual acts are legal, with the age of consent being the same as for heterosexuals. There is no law against an LGBTQI person joining the military and it is legal to change gender status without surgery. Same-sex marriage or unions are not recognised but they are also not expressly prohibited under law<sup>81</sup>. There are no legal impediments to LGBTQI organisational activities, but the government discourages them. Nevertheless, blatant discrimination is accepted in Laotian society, and the country has no law prohibiting discrimination based on sexual orientation or gender identity, and no official discrimination has been reported. Lack of freedom, societal stigma, and concern about repercussions may lead individuals to withhold reporting incidents of abuse against the LGBTQI population. The same lack of freedom to openly discuss general issues prevents LGBTQI communities and international human rights advocacy organisations from advancing LGBTQI rights. There is little to no data on the number of people who identify as LGBTQI in Lao PDR<sup>82</sup>. Transgender also referred to as “Kathoey”<sup>83</sup>, ladyboys or third gender, are thought to be the most marginalised<sup>84</sup>.

Laos abstained or was absent from votes on the inclusion of references to sexual orientation and gender identity in resolutions on extrajudicial executions at the General Assembly in 2010, 2012 and 2014. Similarly, Laos abstained when the UN General Assembly in December 2016 voted on a resolution to “defer consideration of and action on” the mandate of the Independent Expert on Sexual Orientation and Gender Identity (IESOGI). The lack of independent human rights institutions and the government interference in human rights advocacy in general provide challenges in the protection of minority groups, such as the LGBTQI community. Acquiring permission to undertake projects and activities which *focus on*, inter alia, LGBTQI and reproductive and sexual rights and issues relating to the rights of ethnic groups, is particularly difficult<sup>85</sup>.

Some human rights initiatives among LGBTQI people have sprung up, initially from health care programs, especially HIV/AIDS prevention and intervention. A human rights initiative started in 2012 between the LGBTQI community and the Embassy of the United States of America, with the objective of introducing equality to sexual health services. The output was the nascent step to human rights talks among LGBTQI communities, activities and communities. The event garnered attention from diplomatic partners, international NGOs and CSOs, several UN agencies and the British Embassy. The European Union also cooperated with the community to mark the first ever “International Day against Homophobia, Transphobia, and Biphobia” in 2015 and 2016<sup>86</sup>. There has been a milestone event called “Proud to Be Us Laos”, a local initiative which started the discussion of LGBTQI rights and provides support to local LGBTQI communities and organisations, gathering media attention nationally and internationally<sup>87</sup>.

## SOGIE Based Discrimination

### Discrimination in the workplace

LGBTQI workers face discrimination in the labour market throughout the employment cycle because of their perceived or actual SOGIESC. They may be denied access to employment, to training and promotion, and access to social security. Since LGBTQI workers are unlikely to be well represented in government structures, or in employers' and workers' organisations, their particular interests are rarely the subject of social dialogue or reflected in collective agreements. When they encounter discrimination, harassment or bullying, the avenues for workplace dispute resolution may be scarce<sup>88</sup>. While workplace issues are among the least studied subjects, global studies on LGBTQI workplace issues reveal the existence of various manifestations of discrimination, such as bullying and harassment (Colgan et al., n.d.; Hoel et al., 2014, for United Kingdom cases) and direct discrimination: being threatened with dismissal, refused a promotion or taken out of their job (Boerties, 2012, for cases in the Netherlands) and wage differentials between heterosexual and non-heterosexual employees (Badgett, et al., 2007, for United States cases). LGBTQI people who are open about their sexual orientation are often harassed and subjected to discrimination.

Those who do not disclose their sexual orientation or gender identity are not immune from discriminatory practices, however. They may be assumed to be LGBTQI because of the way they dress, physical features or mannerisms. Stereotypes can be used to discriminate against gays and lesbians who do not conform to heterosexual gender identities (Hoel et al., 2014). Keeping identities hidden is stressful for LGBTQI people, as they are forced to live double lives (Colgan, et al., n.d.; Hoel et al., 2014). There are several factors which hinder LGBTQI employees from disclosing their sexual orientation or gender identities, including fears about career progression, temporary employment status, masculine or religious attitudes or behaviours of coworkers, and a lack of visible senior LGBTI staff (Colgan, et al., n.d.). Ragins and Cornwell (2001) point out that LGBTQI employees who experience discriminatory treatment in the workplace demonstrate more negative job attitudes, feel reduced job satisfaction and organisational commitment, and have fewer career opportunities. In addition, LGBTQI employees who are subjected to discriminatory behavior tend to have poorer physical and psychological health than their heterosexual counterparts (Badgett, et al., 2007; Boerties, 2012; Colgan, et al., n.d.; Hoel et al., 2014). There is a need for further studies on LGBTQI people and patterns of discrimination in the labour market and Boerties (2012: p. 6) provides a poignant reason for studying the experiences of LGBTQI people in the workplace<sup>89</sup>.

In Asia, under a heteronormative norm, heterosexuality is perceived as "normal", and homosexuality as "abnormal". LGBTQI people often face challenges at work because their sexual orientation or gender identity conflicts with social expectations, and these expectations are often continuously reinforced in their work environment. The ILO's PRIDE at Work report on Indonesia found that transgender people faced the highest level of discrimination and mistreatment in the workplace. This was in all likelihood driven by the fact that these individuals were seen as having transgressed the boundaries of appropriate gender behavior, as they had chosen to defy the biological role of their gender to reproduce. By expressing their gender identity as something distinct from their biological sex, they subverted the gender hierarchy.



Each country, however, has its own patterns of attitudes and behaviour in the workplace regarding LGBTQI, and each country has its own rulings and regulations regarding workplace discrimination:

- **Indonesia:** The Indonesian Manpower Act (No.13/2003) prohibits any form of discrimination. However, employment discrimination against LGBTQI people is fairly common (Adihartono, 2014; UNDP and USAID, 2014a), given the lack of any law that explicitly prohibits discrimination in the workplace based on sexual orientation and gender identity. Discrimination most commonly takes place during recruitment and during employment. The Manpower Act's article 5 states that any person shall have the same opportunity to get a job without discrimination. In addition, article 6 stipulates that every worker has the right to receive equal treatment without discrimination from their employer. Under the Act, workers and their families shall all be entitled to social security. Further, the act protects employees from being dismissed based on several types of discrimination, including discrimination based on differences in understanding, belief, religion, political orientation, ethnicity, color, race, gender, physical condition and marital status (article 153, paragraph 1 (i)).
- Despite the protective nature of the Manpower Act, it does not specifically prescribe measures to combat discrimination based on sexual orientation and gender identity. In paragraph 1 (i) of article 153, the Manpower Act specifies that employees should not be dismissed on the basis of gender, among other factors. There is an explanatory note to the act, however, making specific mention of "male" and "female" workers, from which it may be assumed that the legal interpretation of gender is based on the binary male-female paradigm. The lack of explicit prohibitions against discrimination based on sexual orientation and gender identity, therefore, poses a challenge for the protection of LGBTQI people in the workplace in Indonesia<sup>90</sup>. Moreover, 36 per cent respondents of the ILGA-RIWI survey disagreed that people with different sexual orientation shall be protected from workplace discrimination (20 per cent for different gender identity).
- **The Philippines:** The Labor Code of the Philippines, also known as Presidential Decree 442, has as its main policy the protection of workers. However, LGBTQI people in the Philippines encounter discriminatory practices that affect their employment status. Ocampo (2011) noted that there are no statistics to show the extent of employment-related SOGIESC discrimination in the Philippines. Government agencies that should be involved in issues of SOGIESC discrimination do not report on LGBTQI discrimination. "SOGIESC discrimination continues to be a category of workplace discrimination that has not become part of mainstream policy dialogues."<sup>91</sup> For many LGBTQI people, discrimination starts even before they are employed. LGBTQI individuals face challenges in employment both on an individual level and as members of a community. Examples of discrimination were given in both the recruitment of employees and during regular employment. This situation, however, might change if the Anti-Discrimination bill gets approved by the Senate. One of the components of the bill is discrimination at work, "including SOGIESC as a criteria for hiring or dismissal of workers"<sup>92</sup>. The Anti-Discrimination bill correlates to the general opinion of Filipinos as 62 per cent and 70 per cent believe that people with different sexual orientations and gender identity respectively shall be protected from workplace discrimination<sup>93</sup>. To date, there is no national law specific to labour policy that protects Filipino workers based on SOGIESC status, but there are local ordinances preventing discrimination in the workplace. One example is the "Ordinance Prohibiting All Acts of Discrimination Directed Against Homosexuals in Any Office in Quezon City, Whether in the Government or in the Private Sector, and Providing Penalties for Violation Thereof (Quezon City Ordinance No. SP-1309 [series of 2003])" and another "An Ordinance Providing for a Comprehensive Anti-Discrimination Policy on the Basis of Sexual Orientation, Gender Identity and Expression (SOGIE) (Quezon City Ordinance No. SP-2357 [series of 2014])"<sup>94</sup>.



- Cambodia:** In accordance with the Cambodian Constitution, all persons are equal before the law without any discrimination on the basis of race, color, sex, language, beliefs, religions, political tendencies, birth origin, social status, wealth or other situations. Labour Law (Royal Order No. CS/RKM/0397/01 of 13 March 1997, amended in 2007) requires that employers do not discriminate on the basis of race, colour, sex, belief, religion, political opinion, national origin, social origin, and membership of a trade union or the exercise of trade union activity. As of 2009, the prohibitions include discrimination on the basis of disability. On gender, the law only includes discrimination against women, stating that the Constitution grants the right to work in any profession to all the citizens: “Khmer citizens of either sex shall have the right to participate actively in the political, economic, social and cultural life of the nation”. The Constitution supports the principle of equal pay for equal work and prohibits discrimination in wages on the basis of sex, origin, and age <sup>95</sup>. Few efforts, however, have been undertaken in Cambodia to discuss SOGIESC issues with employers. Such inertia, according to the CCHR 2012 report <sup>96</sup>, is mainly due to other priority issues on promoting labour rights such as advocacy for a living, or minimum wage <sup>97</sup>.
- Lao PDR:** The Labor Law, Article 141 states that the employer is prohibited from “obstructing employment or using direct or indirect force to make an employee stop work due to marital status, gender discrimination, or infection of HIV” and from “direct or indirect discrimination toward employees within the labor unit” <sup>98</sup>. However, in a country with severe lack of freedom and human rights protection, and a general aversion from Laotians to open confrontation, workers continue to be extremely unlikely to exercise their right to strike or protest, let alone promoting rights for LGBTQI workers <sup>99</sup>. Despite wide and growing tolerance of LGBTQI persons, discrimination in employment persists. In the 2013 Human Rights report, local activists explained that most LGBTQI individuals did not attempt to apply for government or high-level private sector jobs because there was a tacit understanding that employers were unwilling to hire them. Reports indicated that lesbians faced greater societal stigma and discrimination than gay men, and there were no government efforts to address discrimination against LGBTQI in the workplace <sup>100</sup>.

**Graph 03**  
**Protection from workplace Discrimination in The Philippines and Indonesia (Percentage)**



**Source:** ILGA-RIWI Global Attitudes Survey (2017) & Pew Research Center Global Divide on Homosexuality (2013).

While there might be some hope for the Equality Bill in the Philippines to be made into law, the four countries share similar problems of SOGIESC discrimination in the workplace. LGBTQI workers face a higher degree of injustice at the workplace because of their sexual orientation or gender identity which affect their opportunities of possibilities of getting and maintaining a job. In Cambodia, LGBTQI people experience significant discrimination and stereotyping at work, from the application process to interviews through to hiring and performing their jobs. Some LGBTQI people report passing written examinations and being called for interviews, with interview being cancelled after they presented themselves, or they were told outright that they were not suitable for the job. In Indonesia, there have been cases where gay men or lesbians are not accepted for employment, and employers never explicitly mention sexual orientation as the basis for not hiring them.



In cases where LGBTQI employees are dismissed when their sexuality is found out or suspected these individuals are very reluctant to pursue the case<sup>101</sup>. In the Philippines, there are cases of dismissals of LGBTQI employees solely because of their SOGIESC. In the case of lesbian employees, LeAP! (2004) reported that “discrimination can occur in the process of hiring, in the assigning of wages, in the granting of benefits and promotions, and the retention of... employees<sup>102</sup>.” In the case of HIV positive individuals there are policies prohibiting HIV compulsory HIV testing as a pre-condition to employment (The Republic Act 8504 of the Philippine AIDS Prevention and Control Act of 1998). However, there are instances of HIV-positive not applying for jobs that require them to undergo medical examinations which will force them to disclose their HIV status (ILO, 2009).<sup>103</sup>

Injustices may continue with bullying, violence, sexual harassment and differential treatment in the workplace, where LGBTQI have to prove they are good at their job while coping with several forms of aggression and workplace harassment. In the Philippines, in 2009, in a survey done by Concordia et al, homosexual respondents reported the need to work harder to prove their qualifications to their employers, and that they are penalised more severely for similar mistakes and receive less consideration for promotions than their heterosexual coworkers. Rubio and Green reported that Filipino gay men experience greater anxiety associated with less conformity to a prescriptive “male” role.<sup>104</sup> LGBTQI people also forfeit legal benefits including taking maternity leave. Lesbians who are masculine in appearance are hired to do male jobs even if they are given the same lower wages as heterosexual females. It was also noted that employers sometimes sexually harass LGBTQI employees. In a survey made by Micro Rainbow in Cambodia, there were reports on bullying, verbal abuse, in the workplace<sup>105</sup>.

As a result of these discriminatory practices, many LGBTQI individuals result to hiding. The ILO’s PRIDE at Work on Indonesia report states that many LGBTQI employees feel that they must keep their sexual orientation and gender identity non-disclosed, for fear of suffering discrimination, or losing their jobs, especially since some employers still view LGBTQI people negatively, often stereotyping and characterising them as people who have gone astray and who need to be “put straight”<sup>106</sup>. LGBTQI Cambodians do not feel comfortable being open about their sexual orientation in the workplace, and observe limited job opportunities due to discrimination and exclusion. LGBTQI employees face discriminatory comments such as “what kind of establishment is this that hires kteuys (ladyboys)?”.

There are LGBTQI groups who face further differential treatment as they are also discriminated against on the basis of social and economic status. According to the ILO report on Indonesia, gay women and men from wealthier backgrounds can afford non-disclosure, either by working on their own or by selecting more supportive working environments.

Lesbians and transmen are continuously forgotten when addressing workplace discrimination. In the Philippines, while having a Labor Code chapter on women prohibiting discrimination (Article 135 declares it to be ‘unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex’), there is no explicit mention of SOGIESC. A GALANG report on LBT workplace discrimination, states that many LBTs are passed up for employment not because of lack of skills but for prejudice toward homosexuality and “on grounds of immorality”. As a result, many of them have developed a phobia for job interviews and have almost lost hope of landing good jobs, preventing them from seeking economic advancement. As a consequence, many LGBTQI people have left the country in pursuit of improving their lives. Many respondents were college graduates who had held white-collar jobs but were poorly compensated, having to migrate to Hong Kong for jobs for which they are overqualified<sup>107</sup>.

Of all LGBTQI individuals, however, transgender people face the harshest conditions regarding workplace discrimination in all four countries. The ILO PRIDE at work report on Indonesia reveals that gender-conforming lesbians and gay men can avoid discrimination by being closeted, Transgender people, however, with less formal education, have fewer choices and face the hardest challenges. They even face difficulties to obtain a national identity card, a necessary document for accessing services, including social security. Many of them engage as sex workers or street singers, living with the double stigma of being both sex workers and transgender <sup>108</sup>. In the Philippines, there are cases of male-to-female transgender women being told by recruitment officers that they will only be hired if they present themselves as males by cutting their hair short, dressing in men's clothes, and acting in stereotypically masculine ways. Furthermore, as a consequence of the association of some LGBTQI individuals with certain professions (i.e. transgender people are perceived to be prostitutes) there have been cases of sexual harassment. Cambodia is no exception, being to a country where transgender women may find themselves limited to certain types of work such as make-up artists and hairdressers. In general, National Dialogue transgender participants said they cannot express who they really are in the workplace. They might suffer from discrimination and harassment and become the object of ridicule from their colleagues <sup>109</sup>. Furthermore, the implementation of legislation such as the Law on Human Trafficking and Sexual Exploitation has had a disproportionately negative impact on transgender sex workers. The law has increased arrests, decreased their income, and reduced their access to health and social services. Arrests of MSM and transgender entertainment workers has increased threefold, and 55 percent of MSM and transgender women had to pay bribes the police. Currently, in Siem Reap, NGOs report that transgender females are not allowed to go into the main tourist area (Pub Street in the Old Market) as they are presumed to be thieves.





### Discrimination in educational settings

Teenage years are filled with social pressures as part of the school experience for many students, regardless of sexual orientation or gender identity. However, LGBTQI students may encounter harder difficulties, often struggling to “making sense of their identities, lacking support from family and friends, and encountering negative messaging about LGBTQI people at school and in their community”. As a result of these factors, LGBTQI students are more likely than heterosexual peers to suffer abuse, resulting in lower self-esteem that could potentially have an impact on their educational output <sup>110</sup>.

There are different types of abuse or bullying LGBTQI students may face: verbal bullying, physical bullying, social or relational bullying (repeated exclusion, spreading rumours, withholding of friendship) and cyberbullying (threats, criticism or unkind comments or images sent by text, email or posted on social media <sup>111</sup>. The UNESCO report “From insult to inclusion” on LGBTQI bullying in AsiaPacific found common bullying practices in the region, some worth noticing:

- Verbal bullying is the most common, however social bullying (such as exclusion) is also prevalent, followed by physical bullying and sexual harassment;
- The perpetrators are largely other learners, but in some instances, those working in the education sector are also responsible for violence and discrimination;
- Institutional level discrimination and exclusion are common (misrepresentation in textbooks and curricula and absence of gender-appropriate regulations and facilities);
- Those targeted by bullying mostly do not seek help, as schools have insufficient support or response mechanisms;
- Sexism and misogyny intersect with homo, bi and transphobia to make LBT women and girls vulnerable to bullying, harassment, and violence in schools, families and communities<sup>112, 113</sup>;
- An important issue found in the UNESCO paper, that correlates with our findings throughout this report, is that violence is often highly gendered with gay and bisexual men and transgender students. Transgender students report higher levels of victimisation and especially physical bullying, while lesbian and bisexual women report more social and verbal bullying <sup>114</sup>. However, these inferences are gathered by limited experiences of transgender youth in the region <sup>115</sup>.

Bullying has both a direct and indirect impact on the LGBTQI economic outputs of LGBTQI people. Lee Badgett indicates that exclusion and stigma in education can have lifelong impacts on employment options, economic earning potential, and access to benefits and social protection. Family investment in education and training may be diminished for gender non-conforming children if it is believed that there will be little return on investment in the future labor market <sup>116</sup>.

The World Bank’s “Economic Inclusion of LGBTQI Groups in Thailand” showed important data on the correlation between LGBTQI students who face discrimination and their financial and economic outputs in later years. According to the report, respondents who face discrimination in education had a 2.5 percent decrease in the probability of attaining an income of 60,000 Thai baht or more annually, compared to students who did not face discrimination. This finding is consistent with international evidence which shows that discrimination in education based on SOGIESC and other factors (e.g., race, religion, or gender) is associated with fewer economic opportunities (IGLHRC 2014; Dis-Aguen undated; GALANG Philippines 2015; World Bank 2013; Ferreira and Peragine 2015). The report also showed that in accessing education or training, discrimination was most frequently experienced by transgender respondents (23.3 percent), followed by lesbians (11 percent) and gay men (6 percent) <sup>117</sup>. Another study in Thailand found that families often do not support education of transgender youth and/or discourage them from studying certain subjects such as medicine, law or engineering since families believe their transgender family members will not succeed in getting jobs in these fields <sup>118</sup>.



The four countries in this study have legislation against discrimination in educational settings, but only the Philippines has policies on SOGIESC-based education and anti-discrimination.

- **Indonesia:** The 1952 Education Act and the 1989 act adopted democratic principles, equality of opportunity, and equity. Article 5 of the 1989 act states that “every citizen has an equal right to obtain an education” and Article 7 stipulates enrolment “without discrimination in terms of gender, religion, ethnicity, race, social status, and economic status”<sup>119</sup>. Except for enrolment, the country has no specific legislation regarding discrimination in schools gender discrimination pertains to the male/female categories only.
- **The Philippines:** The recently Congress-approved anti-discrimination Bill (September 2017) has two mentions of fining or imprisoning individuals who discriminate in education, by “refusing admission or expelling students in schools based on SOGIESC” and/or “imposing disciplinary actions that are harsher than customary due to the student’s SOGIESC”<sup>120</sup>. However, the bill is yet to be approved by the Senate. In many educational institutions, it was found that LGBTQI pupils and students are subject to discrimination, bullying, and abuse under the guise of “academic freedom”<sup>121</sup>, a reference in the Constitution which allows educational institutions to create their own policies. Some educational institutions have used this freedom to draw discriminating policies against LGBTQI individuals. Prior to the Anti-Discrimination Bill, however, the Department of Education in 2012 issued DepEd Order No. 40 (The DepEd Child Protection Policy) to protect children from violence, abuse and exploitation regardless of sexual orientation and gender identity<sup>122</sup>.

Under the Anti-Bullying act of 2013, there is a specific reference to bullying on the basis of sexual orientation and gender identity, including cyberbullying. The Act instructs all public and private schools (pre-primary, elementary and secondary) to adopt policies to address the existence of bullying in their respective institutions<sup>123</sup>. In 2018, “Policy Guidelines on the implementation of the Comprehensive Sexuality Education” was released to promote teaching and learning about “cognitive, emotional, physical and social aspects of sexuality”, ensuring its implementation on education, and touching on sexual orientation and gender identity, among other subjects<sup>124</sup>.

- **Cambodia.** The Education Strategic Plan for 2009–2013 includes an assurance that all Cambodian children and youth have equal opportunity to access basic education, both formal and informal, without discrimination on the grounds of race, skin colour, gender, languages, religion, political affiliations of parents, place of birth or social status. However, the Plan fails to mention SOGIESC status<sup>125</sup>.

A first issue facing the educational systems in the four countries is the lack of information regarding sex education and SOGIESC. In the Philippines, sexuality education is mandated under the Reproductive Health Law of 2013. NGOs are working with experts and the Department of Education to establish minimum standards on sexuality education that include anti-bullying standards addressing both gender and SOGIESC-based violence. These standards may provide an important entry point to advance the Anti-Bullying Act and its application for LGBTQI learners<sup>126</sup>. On the other hand, the Being LGBTQI in Asia: Indonesia Country Report, mentions that a general lack of education on sex and sexuality in schools, and of issues specifically related to LGBTQI sexuality which, combined with a lack of information and guidance from parents, is harmful to the self-esteem of young LGBTQI people in Indonesia. Some LGBTQI organisations and NGOs in Indonesia deplore the lack of institutionalised and comprehensive sexuality education in formal schooling<sup>127</sup>. The NGO Arus Pelangi has produced a training manual on sexual orientation and gender identity, called *Seksualitas Rasa Rainbow Cake*, which provides information on diversity, human rights safety and security<sup>128</sup>.



Formal education authorities do not see (or do not want to see) the importance of sex education as it may be perceived as something that would lead young people engaging in sex before marriage. Talking about sex in Indonesia is considered a taboo, and sexuality is usually associated with religious mores. Information regarding SOGIESC is still tightly connected to stigma and discrimination, resulting in guilt, sin, and abnormality as common feelings among young LGBTQI people, potentially leading to negative health outcomes <sup>129</sup>.

In countries with taboos regarding sex education and limited understanding of or interest in SOGIESC, existence of anti-LGBTQI policies referring to gender-related behaviour is not unexpected. In the Philippines there have been reports on masculinity tests conducted by some schools and instances when LGBTQI prospective students were made to sign “contracts” to ensure they did not express their sexual orientation or gender identity, <sup>130</sup>. In Cambodia, the National Dialogue participants reported that families put pressure on children to behave according to their biological sex and controlled the way they dressed and expressed themselves. School regulations for uniforms are inflexible: boys have to wear blue pants; girls, blue skirts. If dressed or behaving differently in school, teachers make them stand, forbid them to sit and embarrass them in class <sup>131</sup>.

A lack of understanding, combined with policies that restrict SOGIESC freedom of expression, bully-ing of LGBTQI students comes as a concern. An unsupportive system makes bullying an institutionalised practice since anti-LGBTQI policies “validate” discriminatory practices. For example, the “academic freedom” act of the Philippines, which allows educational institutions to create their own policies, has been found to draw policies that discriminate and bully LGBTQI populations. In March 2012, a Catholic school in the Metro Manila withheld the diplomas of six high school boys who uploaded Facebook photos that appeared to show them kissing one another. Institutionalised abuse can result in validation for peer students to discriminate against LGBTQI individuals. In Cambodia, discrimination in schools was reported by 52 per cent of the 149 lesbian, gay and male-to-female transgender respondents in a 2012 study. Many also reported that their family was unsupportive, and even stopped them from school and work. <sup>132</sup>

An educational system or environment that validates discrimination against LGBTQI individuals results in many pupils and students dropping out of school. This is a factor that may limit access to job opportunities and skills since access to formal education is key to human development, higher in-comes and an overall better quality of life. In Cambodia, dropout rates among LGBTQI youth are higher than the overall school-going population, due to bullying by peers and economic hardship from family rejection. Nationally, one in five students dropped out during the school year 2010–2011 at the lower secondary school level. With no data evidence to support LGBTQI specific drop outs, anecdotal evidence from the CCHR <sup>133</sup> suggests this rate may be higher among LGBTQI youth.

Once again, the transgender community face the hardest challenges. As an example, in 2011, a transgender student of the University of the Philippines in Diliman, Quezon City protested when her French teacher refused to address her as a female because the teacher said it was against her religious beliefs, a decision that was backed up by the school. The refusal to recognize someone’s chosen gender identity can be harmful to their self-esteem, interfering with their educational progress <sup>135</sup> and the combination of family violence in the home and in the school contributes to early dropout, lost employment opportunities and difficulty gaining financial independence among transgender people <sup>136</sup>. In Cambodia, only six percent of transgender females reached higher than secondary school. Family pressure to stop schooling plays a critical role <sup>137</sup>. In a recent study in Cambodia, 24 per cent of male-to-female transgender, 14 per cent of lesbian, and 7 per cent of gay male respondents reported that their family had stopped them from schooling or work <sup>138</sup>. As a result of the lack of education and work opportunities, many transgender women resort to sex work to survive.



### Discrimination in accessing health services

The 2018 Economic Inclusion of LGBTI Groups in Thailand report<sup>139</sup> indicates that LGBTQI respondents who, in addition to experiencing discrimination in obtaining education, training and employment, face discrimination in accessing life or health insurance and have lower incomes than LGBTQI respondents who do not experience discrimination. For example, discrimination in obtaining life or health insurance coincides with a 4.6 percent decrease in the probability of attaining 60,000 Thai baht or more in annual income. Yet, again, discrimination is particularly pronounced against the transgender community, with the survey showing 15.2 percent of transgender respondents experiencing discrimination when getting or using private life or health insurance, followed by 11.4 percent of lesbians and 8.6 percent of gay men. Other forms of exclusion included 36.5 percent of respondents either being stereotyped or unable to cover their partners under life or health insurance plans. When attempting to obtain services, 23.8 percent of respondents were asked to leave the premises because of their SOGIESC status<sup>140</sup>.

Lee Badgett's "The Economic Cost of Stigma and the Exclusion of LGBTI People: A Case Study of India" shows that LGBTI people may face "minority stress", a conceptual framework that focuses on the psychological impact of LGBTI people's disadvantaged position of unequal treatment in legal or economic institutions, or the stigma revealed in everyday interactions and "microaggressions", impacting directly on the health of LGBTI people (Meyer 2003). Existing studies of LGBTI people in India find very high rates of depression, suicidality, and HIV infection<sup>141</sup>. In addition to creating psychological stress, economic discrimination would reduce financial resources available to seek health care services, and social exclusion might make health care services less relevant or accessible to LGBTI people. Even as the health needs of LGBTI people may be greater as a result of minority stress, the health care system usually does not offer culturally competent or non-discriminatory services to LGBTI people, and the fear of stigma in health care settings can lead to avoidance of care or poorer quality of care when relevant information about sexual practices is not revealed by patients<sup>142</sup>.

Family discrimination also influences health outcomes. In India, many LGBTI people report pressure to marry from their families, a situation not dissimilar to Indonesia. This particularly affects lesbians for whom marriage might not provide a zone of privacy for same-sex relationships (as may be true for some MSM) but instead a stricter set of social roles and reduced freedom. Some anecdotal reports suggest that depression and thoughts of suicide may be common for lesbian or bisexual women forced into marriages.

While not the only important subject LGBTQI people, HIV has a historic significance on LGBTQI health, since it particularly affects men who have sex with men and transgender persons, not only because of the epidemiology of the disease but because of social and legal issues that make them more vulnerable to infection (i.e. lack of protective and enabling laws and supportive judicial and policy actions). The Being LGBTI in the Philippines report states that the national HIV response is developed, but there are challenges such as a lack of resources, overemphasis on testing, and problems with access to HIV testing. Many MSM are unable to access existing HIV antibody tests, which increases their vulnerability to infection<sup>143</sup>. Cambodia has been cited for its success in bringing down HIV infection rates in the general population, from 3 percent in 1997 to 1.9 percent in 2003, and to 0.7 percent in 2010. The Cambodian HIV epidemic is now concentrated in most-at-risk populations (MARPs), including MSM and transgender people. In 2010, HIV rates in MSM in Phnom Penh were 3.4 percent, twice that of other males, and close to five times that of the general population (0.7%). Almost 33 percent of MSM and transgender persons in the study reported using illegal drugs.<sup>144</sup> By 2014, Lao had an estimated 0.29 per cent HIV prevalence among adults aged 15-49 years. Sex workers, MSM and transgender people form the key affected populations.<sup>145</sup>

When dealing with HIV treatment there is a continuing lack of differentiation of LGBTQI groups. In Cambodia HIV is a key health issue for MSM and transgender women and there have been efforts over the past few years to recognise and make distinctions MSM and transgender persons in HIV prevention programming, and MSM and transgender persons are now recognised as separate groups with distinct needs and issues. The National Strategic Plan for AIDS (2011–2015) sets different target indicators for MSM and transgender people, and Standard Operating Procedures have been updated and revised<sup>146</sup>.

HIV has also a direct and indirect impact on LGBTQI finance, economic and social stance. In Laos, the percentage of people expressing positive attitudes towards Persons Living with HIV (PLHIV) was very low (17 per cent of women and 14 per cent of men)<sup>147</sup>. The HIV and AIDS Social Stigma Research conducted in 2012 for PLHIV found that existing stigma forced 14 percent of respondents to change their residence, 27 percent experienced verbal insult, 5 per cent reported physical assault and 18 per cent lost a job or income. This response has been highlighted as a major area of concern for PLHIV. According to the US Department of State, the government has promoted public-awareness campaigns to promote tolerance and understanding of PLHIV<sup>148</sup>.

As health support has primarily focused on HIV when dealing with LGBTQI populations, there is a lack of comprehensive services and counselling directed at LGBTQI population and on SOGIESC issues, affecting their mental health. In the Philippines, there is a lack of psychosocial counsellors with the adequate skills to respond to the needs of LGBTQI persons, as most of the psychosocial support relates to pretest and post-test counselling relating to STIs. Very few trained counsellors can address LGBTQI-related depression, anger, suicidal tendencies, self-acceptance and family relationship issues,<sup>149</sup>. In Indonesia, while some more established LGBTQI organisations have provided support for psychosexual and sexual well-being issues, these services are inconsistent and not widely available.

There is little to no information on the quality of the counselling, and referrals to private therapists are still not practiced by most organisations, nor do government health services consider the problems faced by LGBTQI people<sup>150</sup>. In Cambodia, the National Dialogue participants noted a lack of counselling and mental health services for LGBTQI people. Some have been forced into psychiatric treatment and/or forced to visit traditional healers to 'cure' same-sex attraction, resulting in some cases of attempted suicide. As in other countries in the region, counsellors often have no training or expertise on SOGIESC issues,<sup>151</sup>. As explained by Lee Badgett Report on India<sup>152</sup>, and the Economic Inclusion Report on Thailand,<sup>153</sup> this lack of comprehensive services towards SOGIESC issues can have a tremendous impact on LGBTQI wellbeing and mental health, translating into lesser economic development of the LGBTQI population and the country in which they live.





Barriers to accessing adequate health care services for LGBTQI people relate mainly to stigma and discrimination from health professionals.

Transgender people, yet again, face the most severe discrimination. They require attention to health issues other than HIV, such as gender-affirmation surgery, hormone therapy and the use of medications for gender transition. However, in all four countries studied in this report, there are few to no existing health services. Efforts on transgender are merely added to MSM as an afterthought, and health issues specific to transgender persons are ignored. In the Philippines<sup>154</sup>, Indonesia<sup>155</sup> and Cambodia<sup>156</sup> transgender (and particularly transmen) is often excluded from health-related concerns, as the few available services are directed primarily to MSM and HIV issues.

As a result of a health policy outreach to LGBTQI that is oblivious of transgender-specific issues there is a lack of comprehensive services. Unaddressed LGBTQI-specific health issues include problems related to the use of hormones<sup>157</sup>. Few medical practitioners in all three countries are thought to have comprehensive experience of LGBTQI health issues and, as a result, some administer medical care by themselves, even at young ages, which may result in severe complications and side effects,<sup>158</sup>. In Cambodia, lesbians and female-to-male transgender persons report health problems such as body pains from the use of chest binders to minimise breast size. Transgender people are reported to suffer complications or even death from unsupervised and ill-informed use of injections and oils, as part of gender transitioning. Given that gender-confirmation surgery is unavailable in Cambodia and Indonesia, those few who have resources or support may travel to Thailand to obtain hormones or undergo surgery<sup>159,160</sup>.

In addition to living in a society that limits or denies their opportunity to develop in an equal work and educational environment, transgender people face out of pocket expenses that other LGB (and heterosexual counterparts) do not face, including travelling to countries that have gender reassignment surgery, expensive treatments and serious side-effects product of self-medication, making the transgender community particularly vulnerable to economic exclusion. In Lao, the situation is difficult to grasp, as there is no clear understanding of the transgender issue. There is no formal estimation of transgenders in the country and when considering transgenders in HIV studies, they generally have been included in the MSM group for overall interventions. There are no recent data available since the Second Round HIV/STI Prevalence and Behavioral Tracking Survey among Male-to-Female Transgender in Lao PDR in 2012.<sup>161</sup>

The most dangerous outcome caused by exclusion and discrimination is attempting suicide. In the Philippines, the increased risk of suicidal thoughts and attempts for LGBTQI youth is evident in nationally representative data. The results of the Young Adult Fertility and Sexuality Survey indicate that 16 per cent of young gay and bisexual men had contemplated suicide, compared to 8 per cent of young heterosexual men. Of those who contemplated suicide, 39 percent of gay and bisexual men attempted suicide, compared to 26 percent of their heterosexual peers<sup>162</sup>. A similar trend was evident for young lesbian and bisexual women; 27 per cent contemplated suicide, compared to 18 per cent young heterosexual women, and of those who considered suicide, 6.6 per cent lesbian and bisexual women made suicide attempts compared to 3.9 per cent of their heterosexual peers<sup>163</sup>. There is a lack of data on suicide in the other three countries but given that the Philippines is the country with more acceptance towards the LGBTQI population, one can conclude that results for the other three countries may be worse.

Despite the many obstacles to accessing health, there are some positive developments. In the Philippines, the position of the Psychological Association of the Philippines (PAP) on LGBTQI people is now aligned with international bodies<sup>164</sup>, calling upon Filipino psychologists to "respect the diversity among persons and peoples."<sup>165</sup> Lao PDR has expressed commitment to eliminating gender inequalities and has incorporated gender issues into the HIV response. While not specific to LGBTQI, there have been outreach efforts to prevent HIV infections in MSM and transgender. Since 2009, WHO-CDC Technical has been supporting the linkage of outreach to STI and VCT services, supporting the MSM national program in Laos, which includes MSM outreach, HIV counselling and testing service quality improvement, among other services.<sup>166</sup>

## 7. Advocacy opportunities and challenges for LGBTQI inclusion

Economic and investment integration within Southeast Asia has been increasing, and with this, the need for robust regional human rights mechanisms. An increase in awareness of human rights in the region has permitted a surge in human rights NGOs advocating for various causes in the four studied countries, although less NGOs have sprung up in the highly-controlled nation of Laos<sup>167</sup>. To some extent, there are different organizations working on LGBTQI inclusion. As an example, the “Being LGBTI in Asia: Indonesia” report indicates that by the end of 2013 there were two national networks and 119 organisations in 28 out of the 34 provinces in the country, diverse in their composition, size, and age<sup>168</sup>. While voices have increased, many countries and regional intergovernmental organisations are still oblivious, if not opposed to, the advancement of LGBTQI rights. However, the new economic and political context introduces unprecedented opportunities for government, multilateral development banks, NGOs, the private sector and other stakeholders to advance the development of LGBTQI rights in the region at local national, regional and international level.

### Advocacy at national level

#### Governments

The UN Universal Periodic Review has shown to be an opportunity for SOGIESC Human Rights Defenders (HRDs) to raise human rights violations against LGBTQIQ people in their countries, and engage with governments. The “Revealing the Rainbow” (2018) report shows that despite evidence of the growing visibility of LGBTQIQ rights within the UPR process, there is still significant room for improvement within the four studied countries, as progress has been inconsistent. Some Southeast Asian States have acted on accepted UPR recommendations towards implementing policies aimed at eliminating discriminatory practices, but others have actively curtailed the rights of the LGBTQI community and LGBTQIHRDs<sup>169</sup>. The four studied countries have all participated in the UPR, Indonesia being the first to participate in 2017, and Laos the most recent in 2010. Cambodia and Lao PDR are going towards their third cycles, while Indonesia and the Philippines are through their fourth:

UPR Cycles	Indonesia	The Philippines	Cambodia	Lao PDR
First UPR	9-Apr-07	11-Apr-08	1-Dec-09	4-May-10
Second UPR	23-May-12	29-May-12	23-Jan-14	20-Jan-15
Third UPR	3-May-17	8-May-17	Jan/Feb 2019	Jan/Feb 2020
Fourth UPR	2021/2022	2021/2022		

**Indonesia:** HRDs, including those who advocate on LGBTQI rights, remain under threat and vulnerable. Nevertheless, since its first UPR cycle, Indonesia has demonstrated a commitment to advance the protection of HRDs. but LGBTQI organisations continue to face strong opposition from policy- and decision makers and Islamist groups. In 2016, critical statements made by government officials re-garding the LGBTQIQ community and its purported incompatibility with tenets of Islam were met with a surge in anti-LGBTQIQ activities including from the police and university administrators. In addition, Indonesia has consistently failed to support UPR recommendations to decriminalise same-sex sexual relations under its sharia law regimes in some provinces such as Aceh.<sup>170</sup>

**The Philippines:** The country has accepted a wide range of UPR recommendations, particularly in relation to the elimination of discrimination against its LGBTQIQ community, increasing CSO involvement in the UPR process, and ensuring human rights training for state security forces.

“Identifying stakeholders connected with the advocacy issue will suggest which individuals (power-holders and decision-makers) need to be targeted. (...) It is vital to connect with the right individual who can exert some real influence on the issue when dealing with State bodies and policy-makers: (...) Politicians (local, regional, national), Businesses or business leaders, NGOs, Community groups, Human Rights organizations, National Human Rights Institutions (...), International agencies and organizations (...)”.

Carroll, A. (2010). *Make It Work: Six steps to effective LGBTI human rights advocacy*. ILGA- Europe. Brussels



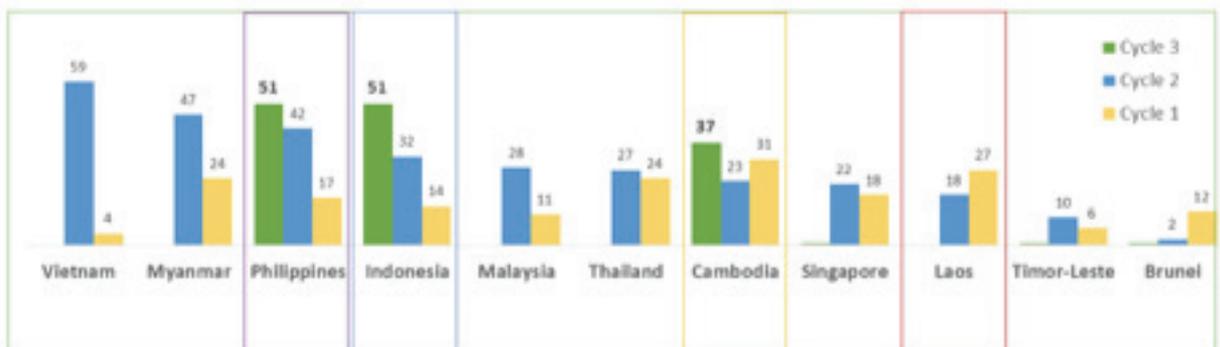
**Cambodia:** The Government has reiterated its dedication to combating discrimination and supporting civil rights and freedoms, accepting some recommendations related to freedoms of expression and the eradication of gender stereotypes. Cambodia has seen greater freedom of expression, association, assembly, and participation in cultural life by the LGBTQI community and HRDs. The government removed an outright ban on same-sex marriage, conducted LGBTQI sensitivity training among public school teacher, and is developing an official curriculum on LGBTQI issues and non-discrimination. The proposed curriculum will teach safe sex, non-discrimination and self-determination for marriage. However, many government officials maintain the position that further legal protection of the LGBTQIQ community is unnecessary, denying the existence of LGBTQI discrimination. As a result, LGBTQIQ HRDs still face obstacles related to freedom of expression, association, and assembly. Moreover, since mid-2017, Cambodia appears to have entered a phase of greater political uncertainty in which fundamental freedoms and the freedom of civil society and independent media appear to be under increased threat.<sup>171</sup>

**Lao PDR:** Issues pertaining to LGBTQI were not discussed during the first or second Universal Periodic Review (UPR). Laos emphasised its commitment to anti-discrimination and improving freedom of expression and association. Yet the LGBTQI community continue to be in need of protection against intimidation, ill-treatment, discrimination and exclusion, as Laos does not have specific laws protecting the LGBTQI community. Since its first UPR cycle, Laos has made efforts to address some recommendations pertaining to human rights training and freedom of expression. Laos' LGBTQI community has its annual Pride and IDAHOT<sup>172</sup> celebrations and government health and communication programs focused on HIV/AIDS, although LGBTQI people continue to face discriminatory practices. There is very limited information available about the situation of LGBTQI advocates, given restrictions on the operations of HRDs and CSOs.<sup>173</sup>

**NGOs and CSOs**

The UPR results reveal some unwillingness of certain nations to accept recommendations on advancing rights of LGBTQI individuals, but it also shows an increase in HRDs in all the studied countries, as LGBTQI advocacy becomes more visible. With the surge in human rights advocacy, an increased number of LGBTQI advocacy organisations have sprung up. The UPR shows that Southeast Asia's LGBTQI communities are becoming increasingly active, particularly in the cultural life of the community. As shown in graph 04, all four studied countries have increased in number of CSO submissions in successive UPR rounds except for Laos.<sup>174</sup>

**Graph 04**  
 Southeast Asian Stakeholder UPR submissions in UPR cycles



**Source:** Revealing the Rainbow. The Human Rights Situation of Southeast Asia's LGBTQI Communities and Their Defenders (2018)

UPR as a mechanism is an effective opportunity for advancing LGBTQI inclusion.



### Coalition building and collaboration

The report also showed that all three countries were keen to collaborate with other change agents and network effectively. There are, however, some limitations. In Indonesia, national-level collaboration remained difficult because of geography, and they somehow feel that existing national networks are still ineffective and need improvement. In the Philippines, the LGBTQI NGOs remain divided, because target populations belong to different socio-economic classes. In Cambodia it is hard to find LGBTQI focused NGOs. All three countries encountered challenges when working with non-LGBTQI organisations, in particular their national governments and when attempting to influence policy- and law making. There are also LGBTQI organisations which need additional capacity building to work on policy at the local level.

### The Private sector

In recent years, businesses have made greater efforts to create more diverse, inclusive workplaces, and have participated in human rights-related causes, including increasing women's participation in the workplace and achieving equal pay for women, supporting marriage equality, transgender inclusion, and LGBTQI rights and empowering local leaders. As for capital ventures, businesses need reasons to promote equality campaigns, and various studies have shown that companies that embrace diversity and inclusion do not only just see an increase in employee engagement or morale, but better overall business and economic performance<sup>175</sup>.

Very few companies in the four studied countries have policies on discrimination against LGBTQI employees. We have seen how stigma, discrimination and the lack of legal protection create an adverse environment for towards LGBTQ people and block them from obtaining jobs, accessing education or health. As a consequence, Hapsari indicated that, in Indonesia, LGBTQI people are more likely to work in the informal economy, particularly in the media, public relations, entertainment, beauty, and creative design industries<sup>176</sup>.

In the Philippines, there are some private companies that have actively supported LGBTQI rights. The Philippine Financial Industry Pride (PFIP), for example, is a collaborative, voluntary, and non-profit community of practice composed of dedicated representatives from LGBTQI Employee Resource Groups and/or Human Resource / Diversity teams of the financial services industry. The aim is to foster an industry that is safe and inclusive for LGBTQI. As a network for promoting LGBTQI inclusion, the collaborative assists member companies by providing networking opportunities and starter toolkit, leveraging through diversity training on sexual orientation, gender identity, and expression. The collaborative promotes equality in the workplace and to nurture the professional and career development of members.<sup>177</sup>

### National Human Rights Institutions

Another domestic advocacy mechanism are the national human rights institutions (NHRIs). The NHRIs constitute a state mechanism that lies between the legislative and judicial branch, and between citizens and the state<sup>178</sup>. According to the UN's Office of the High Commissioner on Human Rights (OHCHR) "NHRIs... are playing a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level, a role which is increasingly recognized by the international community" (OHCHR, "OHCHR and NHRIs"). They work to advance the rule of law, promote legislation in human rights defense and protection, and implement human rights education at all levels<sup>179</sup>. In 1992, NHRIs adopted a set of international standards called the Paris Principles. These principles dictate the competence and responsibilities, composition, independence, methods of operation, and the methods to address complaints that NHRIs should have<sup>180</sup>.

NHRIs in the region are advocates for the rights of all people, regardless of sexual orientation, gender identity or sex characteristics. The Yogyakarta Principles<sup>181</sup> provided a framework on LGBTQI rights that included research, recommendations for reform of laws and policies, investigating and resolving complaints and education and awareness raising activities. NHRIs should do this by establishing strong partnerships with LGBTQI organisations.

According to Outright International (2015), NHRIs can constitute a bridge for LGBTQI rights in the region between governments and civil society. NHRIs are sometimes the only institution that has some influence in the government to advocate for promotion and protection of LGBTQI rights.<sup>182</sup>



## International advocacy

### Regional Organizations

In 2009, the ASEAN Intergovernmental Commission on Human Rights (AICHR) was established, and by 2012 the ASEAN Human Rights Declaration was announced. Human rights have been deliberately brought into the ASEAN political and economic project to establish a more “people-oriented” region and a part of the broader project of making ASEAN a more rule-bound governmental association<sup>183</sup>. AICHR exists as a consultative body to promote and protect human rights and regional co-operation on human rights in member states through consultation and consensus. It is engaged in conducting thematic studies and preparing capacity building activities. It is directed by a body of Representatives, one per member state, and is mandated to work on the promotion and protection of human rights, undertake capacity building, provide advice and technical assistance, gathering of information and engagement with national, regional and international bodies<sup>184</sup>.

ASEAN is mainly focused on economic development and while human rights have gained increased attention, there are still challenges towards improving human rights among ASEAN’s leaders. AICHR, as the main consultative body on human rights, has focused on specific issues, including the elimination of violence against women and children. Regarding LGBTQI issues the ASEAN Human Rights Declaration excludes protection for sexual orientation and gender identity, causing a significant dissent from its principles. The ASEAN LGBTIQ Caucus of 2012 pronounced themselves against the decision of the ASEAN Head of States to adopt an ASEAN Human Rights Declaration (AHRD) that intentionally excludes SOGIESC, and despite many attempts and demands by the members of civil society to push for its inclusion, ASEAN leaders have remained reticent. (ASEAN LGBTIQ Caucus 2012)<sup>185</sup>

ASEAN, and therefore its human rights consultative body AICHR, has a political principle of non-interference<sup>186</sup>. Non-interference means that the independence and sovereignty of all ASEAN member states must be respected and that states will not interfere in other states’ affairs. This diminishes opportunities for ASEAN to intervene in cases of non-accordance, and overall, in domestic matters.





### The United Nations and The World Bank

Since 1994, the UN system has gradually increased its support for LGBTQI rights, even though it has excluded LGBTQI people from the Sustainable Development Goals). However, on 29th September 2015, 12 UN entities (ILO, OHCHR, UNAIDS Secretariat, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP and WHO) released a joint statement expressing their support in ending violence and discrimination against LGBTQI individuals, and calling States and other stakeholders to do more to protect individuals from violence, torture and ill-treatment, repeal discriminatory laws and protect individuals from discrimination.<sup>187</sup> In 2018, in an effort to provide a structure on UN actions towards LGBTQI inclusion, the Office of the UN High Commissioner for Human Rights (OHCHR) prepared a list of major UN and World Bank interventions on LGBTQI rights advocacy from main offices<sup>188</sup>. Below are some of the most relevant interventions

- **Protection against threats to LGBTI rights:** OHCHR has assumed a key role and has prepared two official UN reports on violence and discrimination based on SOGIESC (2011, 2015), provided support to the UN Independent Expert on protection against violence and discrimination, gathered and shared information on alleged rights abuses, assisted in the development of treaty body recommendations and general comments, drafted urgent appeals to governments, advocated against measures that threaten the rights of LGBTQI persons.
- **Policy and Public Advocacy - governments, the Private Sector and the general population :** OHCHR has helped organise ministerial-level meetings for the inclusion of LGBTQI people in efforts to achieve the Sustainable Development Goals, In 2012 OHCHR launched “Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law” out-lining key obligations of States under international law to protect the rights of LGBTQI people. UNDP also participated with undertaking the “Being LGBTI in...” regional initiatives to understand hardships faced by LGBTQIs in 53 countries worldwide In the region, “Being LGBTI in Asia” has engaged with 130 government departments, 357 civil society groups, 17 national human rights institutions and 88 private sector stakeholders across 33 countries. UNDP also published a Handbook for Parliamentarians on advancing the human rights and inclusion of LGBTQI people and in 2013 launched the UN Free & Equal campaign, promoting greater respect for the rights of LGBTQI people, a campaign that has reached more than 2.44 billion social media in almost 30 countries around the world.
- **SOGIE advisors:** In 2016 the World Bank appointed its first-ever SOGIESC Global Advisor to provide leadership and technical guidance to ensure LGBTQI inclusion in World Bank programs and operations. The UN also appointed an Independent Expert on SOGIESC through OHCHR to assess “the implementation of existing international human rights instruments with regard to ways to overcome violence and discrimination against persons on the basis of their SOGIE, and to identify and address the root causes of violence and discrimination”<sup>189</sup>.
- **Specific LGBTI population protection:**
  - In 2015, various UN agencies released a call for ‘States to act urgently to end violence and discrimination against lesbians, gays, bisexuals, transgender, and intersex adults, adolescents, and children.’<sup>190</sup>
  - **Lesbians, Bisexual women, transgender, and intersex:** The regional UN Women Asia-Pacific office held a regional consultation on promoting and protecting the rights of LGBTI persons. They came with a list of ten recommendations for programming actions for UN Women and UN agencies for advancing LGBTI rights. The statement explores the rethinking, redefining and re-conceptualising of gender. Focusing on the transgender population, an ongoing UN-RISD research project, “Beyond Binary: Safeguarding Trans\* People’s Rights”<sup>191</sup> will compare and analyse innovative policies being implemented to safeguard and advance trans people’s civil, political, economic, social and cultural rights in national and local contexts, aiming specifically to fill in identified gaps in current research and policy recommendations.
- **Data collection:** UNDP and the World Bank are leading the development of the LGBTI Inclusion Index<sup>192</sup>. The World Bank also published a report on the Economic Inclusion of LGBTQI groups in Thailand, by conducting a 3500 LGBTQI and non-LGBTQI people survey in the country. The research focused on accessing markets, services and spaces pertaining to the employment, labor, and education sectors.<sup>193</sup>



### On Economic Inclusion

- **Making the case for more evidence-based research:** As a result of evidence linking discrimination to lower economic outputs for LGBTQI individuals, the World Bank is expanding evidence-based research and promote knowledge-exchange in relation to poverty alleviation. The World Bank has already established links between gender equality and development in the 2012 World Development Report on Gender Equality and Development.<sup>194</sup> The importance of social inclusion in development was also articulated in the 2013 report “Inclusion Matters”<sup>195</sup>. UNDP also recognises in their UNDP 2016-2021 Strategy Note on HIV, Health, and Development<sup>196</sup> that homophobia and other forms of stigma, violence and discrimination against LGBTQ people contribute significantly to their exclusion from society, limit access to health and social services and hinder social and economic development.

### On work inclusion

- **Employment discrimination:** ILO’s project Gender Identity and Sexual Orientation: Promoting Rights, Diversity and Equality in the World of Work (PRIDE)<sup>197</sup> seeks to identify discrimination faced by LGBTQ employees and good practices under each of the four pillars of the ILO’s Decent Work Agenda: Fundamental Principles and Rights (identify gaps and shortcomings in legal provisions and their application, and record positive legal systems); Employment Promotion (identify ‘good practice’ workplaces where diversity and tolerance for LGBTQ persons are promoted); Social Protection (assess whether social security instruments are available to LGBTQ workers on the same terms as other workers); and Social Dialogue (assess the extent of governments’, trade unions’ and employer organizations’ knowledge and capacity to raise LGBTQ issues). The ILO has also commenced a process which may result in the first international labour standard or standards on violence and harassment in the world of work, and discrimination based on SOGIESC status is included.
- **Advocacy with the private sector:** OHCHR has developed the “Standards of Conduct for Business”<sup>198</sup>, a guide to the private sector on respect and support for equality and the human rights of LGBTQ people. The standards were developed in partnership with civil society and the business community and launched in 2017 and 2018, reaching more than 122 of the largest companies in the World.

### On Education Inclusion

- **Advocating for SOGIE education:** UNESCO, UNFPA, and partners have published sexuality guidelines, including curricula material for teaching students about sexual orientation, gender identity and expression. In 2018, UNESCO published the International technical guidance on sexuality education<sup>199</sup>. The guidance is developed to assist education, health and other relevant authorities in the development and implementation of school-based and out-of-school comprehensive sexuality education programs and materials.
- **On prevention of violence and bullying:** UNESCO works on preventing and addressing homophobic and transphobic violence including bullying in educational institutions, to ensure the right to quality education for all in safe, non-violent and inclusive environments (SDG 4 – Target 2.a). In 2013 UNESCO launched “Education and Respect for All: Preventing and Addressing Homophobic and Transphobic Bullying in Educational Institutions”, to improve the evidence base, document and share best practice for action, raise awareness and build coalitions, and implement school-based interventions to prevent and address homophobic and transphobic bullying. In 2015 UNESCO launched ‘From Insult to Inclusion’, a comprehensive review into bullying based on sexual orientation and gender identity or expression in Asia-Pacific.
- **Advocacy in governments:** UNESCO has also organized international ministerial meetings and a regional consultation on education sector to catalyze responses by its Member States to violence including bullying based on sexual orientation and gender identity/expression in education, and to highlight gaps and good practices at country-level, and identify strategic opportunities for multi-stakeholder advocacy.



#### On Health Inclusion:

- **Equal access to health:** WHO has the principle that all citizens should have equitable and equal access to health services, irrespective of SOGIESC status, and provides technical support to Member States to build institutional capacity and shaping the research agenda to stimulate the discourse on access to health services. WHO is also advocating against therapies aiming at combating “an illness that doesn’t exist” (referring to SOGIESC status being considered an illness in many countries), with recommendations for governments, academia, the media, and other stakeholders?
- **Against discriminatory practices:** UNFPA supports provision of non-judgmental, rights-based sexual and reproductive health services for all, including for adolescents of diverse SOGIESC, contributing towards universal health coverage and efforts. UNAIDS and WHO have launched the Agenda for Zero Discrimination in Health Care.<sup>200</sup>
- **Combatting HIV and stigma:** Eleven UN organizations (UNAIDS, UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, UN Women, ILO, UNESCO, WHO and the World Bank) have led efforts to achieve universal access to HIV prevention, treatment, care and support. WHO issued in 2011 guidelines on Prevention and Treatment of HIV and other STI among men who have sex with men and transgender people<sup>201</sup>. UNAIDS, in collaboration with the Global Network for People Living with HIV (GNP+) and UN Women, convened the Global Partnership for Action to Eliminate All Forms of HIV related Stigma and Discrimination<sup>202</sup>, an initiative aiming at reducing discrimination based on HIV status.

## The Asian Development Bank

The Asian Development Bank (ADB) was established in the early 1960s as a financial institution to foster economic growth and cooperation in the Asia-Pacific region, by assisting its members and partners by providing loans, technical assistance, grants, and equity investments to promote social and economic development <sup>203</sup>.

The ADB has different sources of funding, most of it coming from the bank's 67 members, 48 of which are from the Asia and Pacific region. Interestingly, out of the members with more than 4 percent shareholdings (and voting powers), 4 out of 9 have positive attitudes towards LGBTQ equality (United States, Australia, Canada, and Germany) and one has had advancements on LGBTQ inclusion and rights (Japan). In this, ADB has the possibilities as an independent organization institution to contribute to the advancement of rights and inclusion of LGBTQI people in the region.

In 2016 ADB had its first seminar: "On the Margins of Development: Asia Pacific LGBTI Inclusion, Poverty Reduction, and Prosperity", with M.V. Lee Badgett, author of "The document; Jogendra Ghimire of the ADB, d Brian Tenorio of The Philippine LGBTI Chamber of Commerce, and Geraldine Roman of the House of Representatives of the Philippines. The event focused on the promotion of gender equality for LGBTI people through the lens of economic inclusion and development <sup>204</sup>. Advocates and experts tackled the different pressing issues that surround the LGBTQI communities and addressed economic inclusion, poverty reduction, and access to social services. This was a first step for the ADB to acknowledge the vulnerability of the LGBTQI population. This was a good starting point and demonstrated ADB's aspirations and leadership in to foster an inclusive environment in the region that meets the needs of vulnerable populations, including LGBTQI people.



### Existing ADB Frameworks as Opportunities for LGBTI Inclusion

The ADB's mission is to foster economic growth and co-operation in the region and to contribute to the acceleration of the process of economic development of the developing member countries in the region, having special regard to the needs of the smaller or less developed member countries in the region<sup>205</sup>. It also has, as a core function, to "cooperate, in such manner as the Bank may deem appropriate, within the terms of this Agreement, with the United Nations, its organs and subsidiary bodies including, in particular, the Economic Commission for Asia and the Far East, and with public international organizations and other international institutions".

#### A. Strategy 2030: Achieving a Prosperous, Inclusive, Resilient and Sustainable Asia and the Pacific

In 2018, ADB released its "Strategy 2030", a new long-term strategy, to respond to the changes brought about by a "rapidly evolving Asia and the Pacific"<sup>206</sup>.

The strategy, has adopted international agreements and contains many sections that are potential entry points for stakeholder engagement on LGBTQI issues, including:

- It aligns with the United Nations-led SDGs.** In strategy 12 (on SDGs) the ADB has endorsed the UN-led SDGs, as a means to call to end poverty, protect the planet, and ensure peace and prosperity for all. The ADB mentions its full commitment to helping to meet the SDGs by aligning ADB strategies with the SDGs, linking ADB operations to the 2030 Agenda, helping Developing Member Countries (DMCs) achieve the SDGs (including technical assistance and knowledge support, and creating DMC program strategies that focus on aspects of the 2030 Agenda that are most in need of ADB's support). It also includes working in partnership with the UN system, other multilateral development banks, civil society, its knowledge partners, and the private sector on the SDGs<sup>207</sup>.
- Its interest in economic development aligns with the inclusion of LGBTQI individuals.** Strategy 7 and 8 call for reducing poverty in Asia and the Pacific and help reduce the rising inequality and social disparities). Growing inequality could "undermine social cohesion, endanger social and political stability, and hamper the region's economic prospects". Lee Badgett's paper on the benefits of LGBTQI economic inclusion demonstrates the benefits of including the LGBTQI population by enhancing protective policies that can result in economic prosperity for the nations, aligning with the ADB's interest in a more inclusive and less poor region<sup>208</sup>.
- References to inequality and inclusion.** Strategy 19 is a call for the ADB to "expand its vision to achieve a prosperous, inclusive, resilient, and sustainable Asia and the Pacific". The strategy aims to sustain economic growth with quality and creating job opportunities by promoting inclusiveness to ensure that economic gains "are widely shared (...) especially for vulnerable populations. Similarly, strategy 21 calls for promoting sustainable development through interventions in social sectors and infrastructure which include education, health, and social protection. The ADB also mentions the need to improve access of the poor, women, and other vulnerable groups. Further, the section on "Accelerating Progress in Gender Equality" could also, in addition to overall women empowerment, include lesbians and transgender women. The section mentions the need for incorporating gender elements in the design and implementation of ADB projects and programs; and "targeted operations as other tracks to empower women and girls in such areas as education, health, financial inclusion, and job creation". Strategy 38 calls for at least 50 per cent of ADB's projects to promote gender equality by 2030.
- Inclusion of LGBTQI in categories of vulnerable groups.** Strategy 32 talks about increasing the emphasis on human development and social inclusion, and poverty being a multifaceted challenge. There is a need to address the non-income dimensions of poverty and vulnerability in urban and rural areas; promote social inclusion and development, particularly for vulnerable groups; and build resilience. To ensure that all members of society can participate and benefit from growth, ADB aims to help "(i) reduce inequality in access to opportunities; (ii) facilitate quality job creation; and (iii) expand its support for education, health care, and social protection programs"<sup>209</sup>.



With LGBTQI people's particular challenges, as this report shows, there is ample evidence to suggest that LGBTQI people constitute a vulnerable group to be considered.

- Strategy 38 calls for at least 50 per cent of ADB's projects to promote gender equality by 2030. Therefore, in its work to promote social inclusion the ADB could consider lesbian women and transgender women in its promotion of social inclusion, since the group as a whole constitutes a vulnerable population.
- **LGBTQI inclusion in employment.** Strategy 33 of the "Strategy 2030" calls for generating quality jobs, by focusing on generating decent and productive jobs to support inclusive growth for all. The ADB mentions the importance of cooperating with the private sector, support countries in improving the business environment for entrepreneurs and companies, and inclusive business-es and inclusive finance. ADB also mentions its interest in enhancing the work environment by supporting core labor standards <sup>210</sup>.
- **LGBTQI inclusion in education.** Strategy 34 of "Strategy 2030" calls for improving education and training. ADB mentions its interest in helping countries improve learning outcomes for all, enhancing employability and job readiness of graduates, and support lifelong learning and training opportunities. The bank commits to assisting in providing quality education and training to any-one, anywhere, and anytime, especially for female students. ADB also commits to promoting stronger linkages with industries and to support lifelong learning and re-skilling programs to ensure that mid-career and older workers can stay productively engaged <sup>211</sup>.
- The ADB is already promoting more equitable education, specifically for minorities and margin-alised groups. The bank mentions that unequal access to education in the region remains pronounced for disadvantaged population groups. While mainly focusing on girls and women, the bank also focuses on youths who come from poor families, rural or remote areas, belong to ethnic or linguistic minorities, have disabilities or are refugees or migrants. The ADB calls for a more inclusive education with focalized strategies, such as education scholarships and stipends linked with conditional cash transfer programs <sup>212</sup>.

**LGBTQI inclusion in health.** Strategy 35 of "Strategy 2030" calls for achieving better health for all, aiming to support DMCs in pursuing universal health coverage by improving the quality and coverage of government and private health care services. The bank mentions its willingness to improve access to quality healthcare services and reduce out-of-pocket expenses incurred by the poor<sup>213</sup>.

- The ADB's "Gender, Law, and Policy in ADB Operations: A Tool Kit" mentions programs relating to the HIV/AIDS crisis in Asia and the Pacific, recognising that HIV/AIDS is a crosscutting concern with clear gender dimensions. It calls for multisector and gender-responsive approaches to prevention, treatment, and care, including law and policy reforms, to address the social and economic vulnerabilities of at-risk groups, ensure confidential HIV testing and equal access to treatment, and to prohibit discrimination against people living with HIV/AIDS in health care facilities, the workplace, and other settings<sup>214</sup>.

## 8. Conclusions

This report set out to give an overview and provide preliminary evidence in Cambodia, Indonesia, Laos and the Philippines on the challenges currently facing LGBTQI people, resulting in lower economic outcomes.

Overall, the report finds that Cambodia, Indonesia, Laos and the Philippines have an LGBTQI population which is economically and socially excluded. There are variations and common patterns, but the reality is that discrimination, violence, harassment, exclusion and stigma in the workplace, educational settings and health services continues to affect the LGBTQI population leaving many unable to reach their full potential. Which is not only to the detriment of LGBTQI people themselves, but also the communities and economies in which they live.

Human rights have a new status in the region, and an increase in awareness of human rights in the region has permitted a surge in human rights NGOs advocating for various causes in the four studied countries in varying degrees.

While voices have increased, there is still a lot which should be done in many countries and regional intergovernmental organisations for the advancement of LGBTQI rights.

Indonesia's recent declarations to move back to criminalising homosexuality correlates with many events that target LGBTQI activities and activists. Some sectors interpret faith to be incompatible with accepting LGBTQI people. LGBTQI overall acceptance is very low while the country has made efforts to help fostering human rights, as shown in Indonesia's participation in UPR cycles, LGBTQI issues are continuously dismissed despite repeated international recommendations on designing and incorporating more accepting policies and practices. As a result, LGBTQI are unprotected from government and discriminated against. There is a need for advocacy groups and other stakeholders to mitigate increasing intolerance towards LGBTQI and foster more acceptance within the general population.

The Philippines has the possibility of more progressive legislation, if the recently Congress approved Equality Bill passes the Senate. Of all data available for SEA countries, the Philippines is among the top countries which has indications for a high degree of acceptance of LGBTQI people. However, while the country shows some acceptance and promise of inclusive legislation, it does not automatically erase societal and political opposition to the recognition of homosexuality. This background research has shown how Filipinos continuously face discrimination in the workplace, in education and when accessing health services, all of which affect their economic wellbeing. There is a need for advocacy groups and others to work towards supporting the approval of the Equality Bill, and other legislations supporting LGBTQI inclusion, and advocating for acceptance of all forms of diverse SOGIESC in the Philippine society.

Cambodia has recently had its King speaking in support for LGBTQI acceptance, but continues to have a difficult stance overall in terms of human rights. LANGO<sup>215</sup> law and governments behaviour and attitudes towards human rights may obstruct improvement of human rights, but Cambodia's indifferent position on LGBTQI may become an opportunity, as well as an obstacle, when advocating for inclusion. Cambodia's LGBTQI people are "invisible" in the country's policies, and declarations made by officials show that there is a severe lack of knowledge of the hardships faced by the LGBTQI people. There is a need for advocacy groups to work with the government and general population in informing and educating about sexuality and SOGIESC, as well as demonstrating, with evidence, the scope and nature of discrimination faced by LGBTQI individuals and its impact on their wellbeing and the country's economy.

Laos faces two increasingly difficult challenges: lack of information and human rights mechanisms. Because of limited evidence and research related to human rights, Laos has the least information available for understanding the situation of the LGBTQI in this background research report. However, lack of information on LGBTQI is not necessarily because of an overt opposition to non-normative SOGIESC, but because of the challenges in overall human rights situation. However, there are signs of Laos enabling more visibility and participation of human rights defenders and for example the UPR has shown some progress on this matter. Advocate groups and other stakeholders should therefore as a first step gather information to understand the situation of LGBTQI in the country in order to, to highlight and recognise their needs, vulnerabilities and opportunities.



## 9. Recommendations

There is a need to significantly increase LGBTQI inclusion initiatives by governments, among local, regional and international organisations, and in the public and private sectors. While NGOs and CSOs have made great efforts and come some way on the LGBTQI advocacy, they still face many challenges in matters of funding, technical expertise, access to and development of data, networking, and opposition from governments and/or the general public.

Other multilateral development banks in the region present opportunities for engagement for more LGBTI inclusion in the finance and development sector. Specifically, the Asian Development Bank, being an important financial institution present in the region can provide political, economic and overall influence in the advocacy for LGBTI inclusion in the region. Engagements and opportunities with the overall goal of being more LGBTI-inclusive is possible with ADB.

These recommendations take into consideration the need to understand the contexts of and the LGBTQI situations in the countries and ensuring the meaningful participation of LGBTQI communities and organizations.

### 1. Enactment of non-discriminatory laws and inclusive policies

LGBTQI communities in the four countries studies are largely unrecognized in the existing laws. This invisibility in the laws contribute to experiences of discrimination and exclusion the of data various aspects of their lives including access to quality and sensitive health services, employment and education opportunities. These laws can range from equality and non-discrimination laws to legislations addressing SOGIESC based discrimination and exclusion in the domains of health, employment, and education. Governments should ensure that all members of society are protected and that laws should not leave anyone behind.

#### Inclusive workplace policies

The private sector should work with organizations working on equality and non-discrimination to craft inclusive workplace policies.

While there might be limited available data, qualitative findings show that discrimination in the workplace affects LGBTI individual's wellbeing and economic status, with lesser opportunities for work improvement, and higher levels of distress that affect their productivity.

### 2. Awareness Raising

Awareness raising activities about SOGIESC, diversity, inclusion, equality and non-discrimination should target those who may not have yet been reached by such activities before. This can include but not limited to government agencies, private sector and businesses, health practitioners, educators, and communities in general.

#### Integrate SOGIESC topics in the educational curriculum.

Accurate and sensitive contents about SOGIESC in the curriculum will contribute to increased understanding about equality and diversity. This will create more inclusive learning environments which foster respect and non-discrimination. In crafting SOGIESC contents, meaningful participation of LGBTQI communities and organizations should be ensured.

### 3. Advocacy for LGBTQI inclusion:

This report outlined that LGBTQI experience exclusion and discrimination in the workplace. These spans the range of getting a job, maintaining Jobs, and promotions. Engaging the private sector for LGBTQI inclusion can contribute to inclusive workplaces.

NGOs and other stakeholders should advocate for more integration of LGBTQI economic inclusion in regional organisations, including with the ASEAN Intergovernmental Commission on Human Rights (AICHR);

More cooperation, alliances and joint efforts should be formed and undertaken with other NGOs, CSOs, the ADB, the private sector and other stakeholders working on LGBTI issues to promote advocacy for LGBTI inclusion;

The Universal Periodic Review is one of the mechanisms where LGTQI organizations can engage in and recommendations can be one the basis for engaging the governments for LGBTQI inclusion. Further, LGBTQI issues can be integrated in the country reports to the UPR.

### 4. Research and Capability Building

One common challenge for all stakeholders is the lack of quantitative and in many cases, qualitative data which will contribute to understanding the challenges being experienced by the LGBTQII populations. Lack of data poses a challenge to assert LGBTQI-focused policies with a sustained baseline to promote effective policies, practices and programmes to significantly improve economic inclusion for LGBTQI people in the four countries.

Foster partnerships between the private and public sectors, academic institutions, and organisations working on LGBTQI rights for more rigorous research to improve and expand available data and information on LGBTQI inclusion. This will inform programs aimed to address and improve the situation of LGBTQI populations in the region;

The research capacity of LGBTQI organisations should be built and strengthened so that they are able to meaningfully design, implement, evaluate and participate in qualitative and quantitative research projects on LGBTQI-related issues;

## IADB: Data gathering

*The InterAmerican Development Bank has begun work with LGBTI population, despite many conservative Governments in the region opposed to LGBTI rights (particularly in the Caribbean). As a first step, they have started with the collection of LGBTI-related data in Argentina to understand exclusion patterns faced by LGBTI populations in the country. They plan as well to organize other available data in the broader LAC region. The project circumscribes under the social investment sector, under gender equality & women empowerment. With a total cost of \$100,000, the project was justified by explaining the very little information known about the size of the total LGBTI population in LAC or the types of exclusion they face, even less for particular LGBTI sub-populations. They claim that these data gaps, and inaccurate stereotypes about LGBTI populations, make policymaking difficult. They expect the findings to improve the design of future projects that would address the needs of these populations, including social sector projects to improve the delivery of specialized services; and provide better policy recommendations to combat discrimination based on SOGIE*

IADB (2016).  
Social Exclusion based on Sexual Orientation and Gender Identity (SOGI) in LAC.  
At: <https://www.iadb.org/Document.cfm?id=40095202>

## Recommendations for the Asian Development Bank

This research has identified a number of possible entry points where LGBTQI inclusion can be further strengthened and integrated in the Asian Development Bank's vision and mission and where the bank may be more LGBTQI inclusive in its operations. The following recommendations centre around policies, operations and on facilitation of access and participation of LGBTQI communities and organizations to their processes and procedures

The ADB can anchor LGBTQI inclusion in their "Strategy 2030" in particular around the following aspects:

### 1. LGBTQI inclusion in policies

- The ADB should include LGBTQI in workplace, financial, health and educational policies, to achieve the "Strategy 2030" objectives of improving the lives of everyone in the region, especially the most vulnerable population;
- The ADB should include LGBTQ under vulnerable groups with regards to the bank's efforts to improve and promote Social Protection;
- The ADB should Include LBT in their gender-focused policies, with particular attention on lesbians, bisexual, and transgender women;

### 2. LGBTQI inclusion in operations

- The ADB should include LGBTQI as a category in its "Poverty and Social Analysis" to ensure that development interventions are inclusive, equitable, and empowering for LGBTQI people;
- The ADB should advocate for LGBTI inclusion in governments and include LGBTQI protection components within programs funded by the ADB;
- The ADB should consider appointing SOGIESC advisors, to help provide leadership and technical guidance to ensure LGBTQI inclusion in the bank's programs and operations;
- The ADB should include LGBTQI in their work on combatting discrimination against people living with HIV/AIDS in health care facilities, the workplace, and other settings.
- The ADB should promote LGBTQI inclusion in the private sector;
- The ADB should foster alliances with National Human Rights institutions and promote human rights protection and promotion of rights of LGBTQI people;
- The ADB should forge partnerships and strengthen existing partnerships with NGOs and CSOs working on LGBTQI issues. Efforts directed towards the goal of LGBTQI inclusion should ensure meaningful participations of the LGBTQI community.

### 3. Fostering knowledge and research through data collection

Data is needed for better focalized policies attending real needs of the population, and for advocating within Governments on the challenges the LGBTQI face. Quantitative and qualitative data will show the challenges faced and the need for more inclusive policies. Data can be used as well to show how LGBTQI focused policies can result not only in the wellbeing of the marginalized population, but on the countries overall economy as well. Data gathering is therefore a first step the ADB should be doing for advancing the economic and social inclusion of the LGBTI.

Strategy 88 of the "Strategy 2030" outlines ADB's vision of having an important role as a knowledge institution and Strategy 90 calls for a proactive role of research, to "raise understanding and awareness about critical areas and sectors for action; and support good policies and reforms by DMCs"<sup>216</sup>.

More investment in strategic LGBTQI research can help inform policies and advance the inclusion of LGBTQI people.

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Equity. Dignity. Social Justice.



*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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