



ASEAN SOGIE CAUCUS

ASEAN SOGIE Caucus's Input for the Independent Expert on SOGI Report on colonialism and sexual orientation and gender identity

Anecdotal Evidence on the Existence of Sexual & Gender Diversity due to Colonialization in Southeast Asia

The gender and sexual diversities were embraced in pre-colonial history in Southeast Asia. Its diversity has always been rooted culturally and socially. Meta-gender and or two spirits were ingrained in indigenous society in the Philippines, Indonesia, Thailand, Burmese among others. *Babaylan* for instance does exist in the Filipino indigenous community where the society believes that *Babaylan* were the protectors and has the spirit of both femininity and masculinity in one person. The similar culture existed in Bugis society long before it became the modern state where the society believed in two spirit shamans called Bissu. They are the protector of the Bugis kingdom and are meta-gender that has a transcendent spirit.

Historical and Cultural Approaches to Reclaim Queer History in Vietnam

Hanoi Queer, a local organization in Vietnam, produced an animated video featuring historical figures whose gender identity or gender expression are beyond the heteronormative and gender-binary conceptions. The terms queer or LGBT did not exist centuries ago, but the stories of certain historical figures who have challenge prevailing gender norms at that time contributed significantly to the assertions of contemporary activism. One of which is *Ba Trieu* or also known as *Trieu Thi Trinh* who is a warrior who led the rebellion against the Eastern Wu Dynasty of China who occupied a significant part of Vietnam. Another example is *Khai Dinh*, an emperor who ruled from 1916 to 1925, and was believed to have romantic and sexual relations with his bodyguard.

Source: Hanoi Queer. "Vietnam Queer History: Once upon a time - approaching history from another perspective" [Video]. Youtube, February 15, 2021.

<https://www.youtube.com/watch?v=B8c4sgrTI5c&t=8s>.

Mythological Figure in Pre-Colonial Philippines

One mythological figure that was interpreted as having a gender that transcends the binary is *Lakapati*, a deity of fertility and agriculture. Early descriptions of *Lakapati* were recorded in the *Vocabulario De La Lengua Tagala*, written by Franciscan friar Pedro San Buenaventura. In his account, people will make sacrifices to *Lakapati* in rice fields where



ASEAN SOGIE CAUCUS

farmers would say “*Lakapati, pakainin mo yaring alipin mo; huwag mong gutumin.* (Lakapati feed the thy slave; let him not hunger.)” Accounts portrayed the deity as “fittingly represented as a hermaphrodite image with both male and female parts, was worshipped in the fields at planting time.”

Source: Scott, William Henry, 1994. *Barangay: Sixteenth-Century Philippine History and Culture*. Quezon City: Ateneo De Manila Press. p. 234.

<https://archive.org/details/BarangaySixteenthCenturyPhilippineCultureAndSociety/mode/2up>.

Colonial legacy of criminalization of LGBTQIA+ Persons

In countries formerly colonized by the British empire, criminal provisions such as the anti-Sodomy laws or Section 377 were adopted. At present, such laws are enforced in Brunei Darussalam, Malaysia, and Myanmar. A repeal of such law took place in Singapore in 2022. Ironically, the modern state continues to perpetuate its colonial legacies.

Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine. (Section 377, Brunei Penal Code)

Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. (Section 377, Myanmar Penal Code)

Any person who has sexual connection with another person by the introduction of the penis into the anus or mouth of the other person is said to commit carnal intercourse against the order of nature. (Section 377A, Malaysia)

Whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to whipping. (Section 377B, Malaysia)

Any person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be punished with imprisonment for a term which may extend to two years. (Section 377D, Malaysia)

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ASEAN SOGIE CAUCUS

Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years'. (Section 377A, Singapore Penal Code).

Recently, the government of Singapore has just repealed the 377A after more than a decade of advocacy work by the queer people. The votes at the Singapore Parliament was overwhelmingly voted in favour to repeal the law on November 29, 2022. However, the vote was not only to repeal the 377A but also to amend the Constitution of the Republic of Singapore, Amendment No. 3. The amendment was to introduce a new provision, titled *"Institution of Marriage"* *The Legislature may, by law, define, regulate, protect, safeguard, support, foster and promote the institution of marriage.* This provision intended to define that marriage and or union as only between men and women. The amendment was passed by Parliament on the same day with and assented to by the President on 27 December 2022.

Opposition to SOGI using anti-colonial discourses

Critics of the advance of the human rights of LGBTQIA+ persons articulated anti-colonial sentiments. Their argument is that advocacy for equality and inclusion based on SOGIESC is an imposition from the West, or from economically developed countries. There is an assertion that certain standards that are being practiced in certain countries are not consistent with domestic context. There is an assertion that local cultures value the family (interpreted as the heteronormative family arrangement), and give primordial role to religious beliefs that serve as societal anchors.

The following are examples of public statements issued by government officials from selected Southeast Asian countries:

In Indonesia, the islamic political party called Partai Keadilan Sejahtera (PKS) through their Head of Politic, Human Rights and Law said during the parliament hearing on Saturday, May 21, 2022 said *'the European ambassadors, think that LGBT is human rights. Western countries that claim to be democratic countries do not want to recognize the right of the Indonesian people to regulate laws according to the culture of the Indonesian nation which is based on Pancasila and the 1945 Constitution. The West should be humbled to see that family arrangements in eastern countries (outside the West) are stronger, harmonious, happier and cleaner than various sexual diseases. The West should be willing to humbly learn from the ethics of the Eastern world regarding issues of sexual ethics and family harmony. Not the other way around.'*^[1]

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In the Philippines, Senator Joel Villanueva expressed his opposition to the SOGIESC Equality Bill, an anti-discrimination bill that has been filed: *"If you cannot respect the word of God, if you cannot respect the Bible, please respect the beliefs of our countrymen. We cannot just disregard these and say that this is because this is being done in other countries."*^[2]

A Tweet by Representative Eddie Villanueva to express his opposition to the SOGIESC Equality Bill that is being deliberated in the Philippine Congress. Villanueva is a pastor and founder of the Jesus is Lord Movement. The said tweet *"SOGIE Bill is a clear CAMOUFLAGE of Same Sex Marriage that will convert Philippines as Modern SODOM & GOMORRAH thus inviting GOD's Wrath! FILIPINOS SHOULD NOT BE DECEIVED! Pray for politicians blindly deceived by this Imported Evil!"*^[3]

Another tweet from Eddie Villanueva as quoted *"Our beloved Philippines is now being threatened to be converted as modern SODOM & GOMORRAH thru subtle invasion of imported multibillion foreign-funded evil multi-gender ideology! TRUE FILIPINOS COME OUT NOW FROM THE CAVE!"*^[4]

A public statement by former Prime Minister of Malaysia Dr. Mahathir Mohamad. The statement insinuated that the West has influenced Malaysians to advance an agenda that is contrary to local culture. *"That's how they exert their pressure and they have managed to influence some Malaysians, including some Muslims and Malays who think that one of the manifestations of freedom is the right to accept what is practised in the West... For example, in the West, (the importance of) marriage institution is being disregarded and family institution is no longer accepted. Couples can live together unmarried... That's their way, we don't have to agree to it. We have our own values that we hold on to and must be proud of (the value of our lives). Don't simply follow the West."*^[5]

[1] Al Muzamil Yusuf statement against the LGBTIQ at the parliament hearing using western agenda excuse, Saturday (21/5/2022). <https://fraksi.pks.id/2022/05/22/protes-kedubes-inggris-kibarkan-bendera-lgbt-pks-ungkit-soal-penyakit-seksual/>

[2] "Joel Villanueva urges respect for religion in dismissal of LGBTQ+ rights", PhilStar Global, February 13, 2023. <https://www.philstar.com/headlines/2023/02/13/2244699/joel-villanueva-urges-respect-religion-dismissal-lgbtq-rights>.

[3] Bro. Eddie Villanueva [@Bro_Eddie]. *SOGIE Bill is a clear CAMOUFLAGE of Same Sex Marriage that will convert Philippines as Modern SODOM & GOMORRAH* [Tweet]. Twitter, January 7, 2023. https://twitter.com/bro_eddie/status/1618847090142232577.

[4] Bro. Eddie Villanueva [@Bro_Eddie]. *Our beloved Philippines is now being threatened to be converted as modern SODOM & GOMORRAH* [Tweet]. Twitter, February 14, 2023. https://twitter.com/Bro_Eddie/status/1625465810058891265.

[5] "We are free to reject LGBT, other unsuitable Western influences – Dr Mahathir", New Straits Times, June 18, 2019. <https://www.nst.com.my/news/nation/2019/06/497206/we-are-free-reject-lgbt-other-unsuitable-western-influences-dr-mahathir>.