

## **LGBT Rights in Southeast Asia: One Step Forward, Two Steps Back?**

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### **Abstract**

Although in recent years many leading international actors, including the UN and European Union, have endorsed the idea that “LGBT [lesbian, gay, bisexual and transgender] rights are human rights and human rights are LGBT rights” (Clinton, 2011), at the regional and national levels support is still far from guaranteed. The result is that while globally there has been significant progress in recognising the rights of LGBT people, at times assisted by and resulting in cultural transformation, there has also been an accompanying rise in both popular, religious and political homophobia in many states. These conflicting and frequently highly contradictory dynamics are particularly evident in Southeast Asia, where some great leaps forward in protecting the rights of LGBT people have occurred in parallel with substantial setbacks. For example, in late 2014, a Malaysian Appeals Court ruled that a ban on cross-dressing was unconstitutional, while a Singapore Court held that a law criminalising consensual same-sex conduct between men was constitutional. This paper explores the debates and trajectories of LGBT rights in Southeast Asia from four different perspectives in order to assess not only the overall state of LGBT rights in the region, but also to consider how further progress towards meaningful protection of LGBT rights can be achieved.

**Keywords:** LGBT rights, human rights, SOGI rights, Southeast Asia

## Introduction: Steps, Slips and Slides

In recent years it has become axiomatic in international human rights discourse that, in Hillary Clinton's (2011) words, "LGBT [lesbian, gay, bisexual and transgender] rights are human rights and human rights are LGBT rights". At the global level, the veracity of this statement would seem indubitable: the United Nations has firmly aligned itself with calls for LGBT equality via its Free & Equal campaign ([www.unfe.org](http://www.unfe.org)) and the UN Human Rights Council's "landmark" September 2014 resolution condemning anti-gay bias (HRW, 2014a), as well as the appointment of an Independent Expert on Sexual Orientation and Gender Identity in 2016 (HRC 2016), while the EU formally adopted guidelines for supporting LGBT persons' human rights in June 2013.<sup>1</sup> At the national level, meanwhile, there also seems to be growing acceptance of LGBT rights: the US appointed the first-ever Special Envoy for the Human Rights of LGBT Persons in February 2015 (US Department of State, 2015), and sexual orientation and gender identity is explicitly included in anti-discrimination legislation in 70 countries, while same-sex marriage is now legal in approximately 20 countries, with a further 17 countries providing some form of legally recognized union for same-sex couples and 17 countries permitting same-sex couples to jointly adopt (Carroll & Itaborahy, 2015).

The global view, therefore, would seem to confirm Kees Waaldjik's (1994) hypothesis that there is an identifiable sequence of legislative developments that lead to legal recognition of homosexuality. Waaldjik's model is based on the identification of a pattern of incremental and sequential steps observed in many European countries that have led to increasing legal recognition of homosexuality. As he describes:

The law in most countries seems to be moving on a line starting at (0) total ban on homo-sex, then going through the process of (1) the decriminalisation of sex between adults, followed by (2) the equalisation of ages of consent, (3) the introduction of anti-discrimination legislation, and (4) the introduction of legal partnership. A fifth point on the line might be the legal recognition of homosexual parenthood (1994, pp. 51–52).

Waaldjik acknowledges that this pattern is not without its issues, since countries do sometimes "take a step backwards", or steps may be completed in a different order (1994, p. 52). Nonetheless, his conclusion is that "[t]here seems to be a general trend of progress; where there is legal change it is change for the better. Countries are not all moving at the same time and certainly not at the same speed, but they are moving in the same direction — forward" (p. 51).

However, a closer look at the situation for LGBT people in any region of the world suggests that such optimism is premature and naïve at best, and downright misguided at worst. Firstly, the adoption of legislation does not automatically erase societal and political opposition to the recognition of homosexuality, and the assumption that where the law leads, society will follow is at the very least over-simplistic. Even in those countries or states where full legal equality has been achieved, LGBT people remain disproportionately likely than their heterosexual or cisgender<sup>2</sup> counterparts to encounter prejudice or discrimination, with significant impacts on health and wellbeing (see for example Bauer et al., 2009; Pachankis et al., 2015).

<sup>1</sup> See [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/137584.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf) and [http://www.eeas.europa.eu/human\\_rights/lgbt/index\\_en.htm](http://www.eeas.europa.eu/human_rights/lgbt/index_en.htm).

<sup>2</sup> Cisgender is an adjective used to describe "a person whose gender identity corresponds with the sex the person had or was identified as having at birth". See <https://www.merriam-webster.com/dictionary/cisgender>.

Second, legal gains have often been accompanied by a corresponding intensification of resistance to the idea of recognizing the right of LGBT persons to be accorded the same rights as everyone else in both the societal and political spheres. This is arguably most clearly evident in the rise of political homophobia (Weiss & Bosia, 2013) and discourses of “traditional values” that seek to counter respect for the human rights of LGBT people (Wilkinson, 2014). This has caused a small but growing number of countries to consider following Russia’s example and adopt “anti-homopropaganda” laws (Carroll & Itaborahy, 2015, p. 32). It is also evident in the efforts of conservative religious groups such as the World Congress for Families and the National Organisation for Marriage to prevent or roll back legal gains (Kincaid, 2015; Nash & Browne, 2014; Zivi, 2014).

Third, as Waaldjik himself has acknowledged (1994, 2009), it should not be assumed that the experience of European countries will be replicated in other parts of the world, given the diversity of factors that shape developments in any country at any time. Indeed, the Eurocentrism of the model has the potential to skew both expectations and interpretations, suggesting that there is a “right” way to achieve legal recognition, rather than developing strategies that are responsive to local contingencies and dynamics – something that in turn risks running afoul of arguments that the push for universal recognition of “gay rights” is a form of neocolonialist Western imperialism (Cheney, 2012; Massad, 2002).

The salience of these criticisms of Waaldjik’s model is especially evident in Southeast Asia, where differences between countries in how the rights of LGBT people are dealt with are increasingly evident. At the regional level, the diversity of stances on LGBT rights is clearly seen in debates between member states over “Asian values” and especially in relation to the content of the ASEAN Human Rights Declaration (Langlois, 2014), while at the national level approaches to LGBT issues have been exceptionally varied and often – on the surface, at least – seemingly contradictory. To take three recent examples: in late 2014, a Malaysian Appeals Court ruled that a ban on cross-dressing was unconstitutional (ABC News, 2014), yet a “morality raid” in Johor by Malaysia’s Islamic police in September 2014 resulted in the arrest of two women for allegedly having same-sex relations (Autostraddle, 2014). In Singapore, meanwhile, the constitutionality of a law criminalising consensual same-sex conduct between men was upheld in 2014 (HRW, 2014b), despite the fact that Pink Dot events in support of the LGBT community have been held annually since 2009 and attract tens of thousands of participants. Finally, India’s Supreme Court recriminalized homosexuality in 2013 (it having been decriminalized in 2009 by the High Court of Delhi), but the following year the Indian Government granted full legal recognition to hijras, creating a “third gender” category for official documents (Khaleeli, 2014).

These examples, as well as extensive reports about the discrimination, marginalisation and violence experienced by LGBT people in the countries of Southeast Asia (UNDP, 2014 & 2015), point to the reality that, in practice, recognition of LGBT people’s human rights is uneven, incomplete and frequently contradictory and arbitrary, reflecting national, regional and international politics, as well as multiple intersecting dynamics of privilege and marginalisation. This in turn means that the utility of any one model for progress is limited, since it cannot account for all aspects of a complex and multifaceted situation. Indeed, any attempt to assess progress against milestones, as Waaldjik proposes, calls to mind the parable of the blind men and the elephant: one’s verdict largely depends on which part of the elephant one examines, as well as one’s preconceptions about how the world is, could and should look. If we are to develop a meaningful understanding of the state of LGBT human rights, and hence identify potentially effective interventions to address violations and shortfalls in their

protection, a more holistic and critically-informed examination of the “LGBT Rights Elephant” is required, as outlined in the following section.

### **Assessing the LGBT Rights Elephant: Four Perspectives**

This section presents four perspectives that collectively aim to lay the foundations for developing a framework for assessing recognition and protection of the rights of LGBT people that is context-specific and context-sensitive. Collectively, these perspectives reveal local societal, political, legal and cultural dynamics and their interactions, thereby enabling the needs and interests of local communities to be foregrounded. In contrast to the idea of there being a series of steps towards recognition, this process can be characterised as more akin to learning how to dance; success is dependent on one’s movements being coherent in their own right, but also on being congruent with the music, other dancers and the occasion. Even the most thorough consideration of all the four perspectives discussed does not, of course, guarantee a positive outcome on the human rights dance floor – this requires extensive practice and experience both individually and collectively. Nonetheless, taken together, these perspectives provide an initial primer for this endeavour, seeking to challenge some assumptions and generate insights in how the human rights of LGBT persons can be more effectively protected and promoted in Southeast Asia.

### **Legal: From Jurisprudence to Demosprudence**

Discussions regarding the protection and promotion of the human rights of LGBT persons often centre on the number of countries that continue to criminalize same-sex sexual conduct between consenting adults. As the table below illustrates, there is only one geographic region, Europe, that has no countries that criminalize homosexual conduct. However, as this section demonstrates, the extent to which conclusions can be drawn from this data about the “gay friendliness” of a country is limited.

<b>Region</b>	<b>Number of countries that criminalise consensual same-sex sexual conduct</b>
Africa	33
Americas	11
Asia	12
Europe	0
Middle East	13
Pacific	8

Table 1: Countries that criminalise same-sex sexual conduct by region.

The European Court of Human Rights judgment in *Dudgeon v UK* (1981) and the United Nations Human Rights Committee case of *Toonen v Australia* (1994) were landmark decisions that held that laws criminalising homosexual conduct were discriminatory and violated the human right to privacy, even if they were rarely or never enforced. As a result of these decisions, many countries repealed their criminal law provisions relating to “offences” such as sodomy, buggery and unnatural acts.

However, looking at the legal framework of a country does not necessarily provide an accurate picture of the extent to which a country protects and promotes the rights of LGBT persons. For example, since North Cyprus decriminalised homosexual acts in February 2014, Europe is a region free from any laws criminalizing same-sex sexual conduct. However, there remain significant pockets of homophobia and transphobia, including Russia and much of the Balkans (Miglierina 2014; Wilkinson 2014a).

Hungary provides a useful illustration of this phenomenon. It has very good anti-discrimination laws, but is a very homophobic society with significant levels of violence directed at LGBT communities and individuals. For example, at the 2007 Gay Pride March in Budapest, Renkin (2009, p. 20) describes how

[a]pproximately 2,000 marchers were ceaselessly pelted with eggs, bottles, bags of sand, and at least two incendiary flares. Besides missiles, right-wing attackers, from youths to elderly women, hurled epithets such as “Filthy queers!” and “[Throw the] faggots into the Danube!” ... The violence did not end with the March; later that night gays and lesbians were assaulted as they returned home following the after-March celebrations. Eleven participants were beaten, at least two so badly that they were hospitalized.

This situation can be contrasted with Singapore, which continues to criminalize homosexual conduct and has no anti-discrimination laws prohibiting discrimination on the basis of sexual orientation or gender identity. Notwithstanding this, 28,000 people came together at Hong Lim Park to participate in the 7<sup>th</sup> annual Pink Dot in June 2015, which event attracted significant corporate sponsorship and proceeded without any violence or counter protests.<sup>3</sup>

Thus, we see that the extent to which the law reflects or impacts upon societal attitudes may be minimal. This echoes the conclusion reached by Tom Stoddard, a legal academic and gay activist from New York, who went to New Zealand in 1996 expecting to find a gay utopia. At that time only nine of the 50 states in America had specifically outlawed discrimination on the basis of sexual orientation, and statute books were still filled with anti-gay legislation. In contrast, New Zealand’s anti-discrimination laws included a category of sexual orientation, and the eradication of discrimination against same-sex couples was very much on the government’s legislative agenda. Stoddard concluded that “New Zealand, on paper, seemed like the Promised Land” (1997, p. 968).

However, when he arrived there, he found that New Zealand looked and felt like an average American city 20 years earlier. New Zealand’s laws were more progressive, but its society was more conservative. In contrast, New York had a much more open and obvious gay culture resulting from “a quarter of a century of a visible ‘gay liberation’ movement” (Stoddard 1997, p. 969). Reflecting on his experience, Stoddard reached the conclusion that, contrary to what might be assumed, changing the laws that govern a society do not automatically lead to larger cultural transformation.

Guinier and Torres, two American academics, concurred with Stoddard that a rule change will have limited effect without a shifting of societal attitudes, and coined the term “demosprudence” to describe the relationship between law-making and the democracy-

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<sup>3</sup> For a description of this event, see: <http://www.straitstimes.com/singapore/record-28000-gather-at-hong-lim-park-for-annual-pink-dot-rally>.

enhancing effects of social movements (Guinier & Torres, 2013). Applying the principle of demosprudence to LGBT rights in Southeast Asia, we can conclude that law reform is essential, but is only one piece of the jigsaw puzzle. It will be of limited impact unless accompanied by societal/cultural change, of the kind already being seen in Singapore in the Pink Dot celebrations.

### **Cultural: Decolonising and Queering LGBT Rights Activism**

As the previous section demonstrates, the cultural dynamic is therefore pivotal to any substantive change that may occur through law and society. It is important to understand that there are other means for societal change available to LGBT people, which are not simply enacted through law or through traditional Western style activism. In Southeast Asian countries such as in Singapore, Malaysia and Indonesia, for example, the kind of LGBT activism that has developed may appear to be completely distinctive from that found in most Western polities.

For scholars interested in understanding the way that LGBT human rights activism has emerged in Southeast Asia, therefore, there are a number of salient considerations that need to be taken into account. Assumptions, for instance, about LGBT activism and its global evolution need to be questioned when investigating non-Western contexts. There has been a strong emphasis on political, social and legal activism perpetuated in the globalising West, which has been predicated upon explicit visibility, “coming out” narratives, universalist and essentialist regard to sexual orientation and gender identity, and powerful identity politics (Offord, 2011, p. 136). These features of Western style LGBT activism do not characterise the kind of activism that has emerged in Southeast Asia. These differences highlight how LGBT activism functions across cultures in a range of ways. LGBT movements are characterised by their geo-political context, history, social, religious and economic conditions, as well as their approach to expression and degree of visibility which are tempered by the broader and specific social, political and cultural expectations and domains available. Understanding how LGBT rights activism operates in non-Western contexts thus depends on a “decolonising global queer studies approach” (Offord, 2011, p. 136), which is mindful not to replicate the Western template of LGBT liberalisation.

For the purposes of this article, Singapore, as flagged in the previous section, is a case in point. This small but economic giant of Southeast Asia is a nation where the LGBT movement has developed in specific ways that are not due to legal or political recognition or political liberalisation, but through the “cultural liberalisation” of its “creative economy” (Yue, 2012, p. 199). Homosexuality may be tolerated in Singapore, but it remains illegal under Section 377A of the Penal Code (Macauley’s Indian Penal Code – a legacy of British colonisation). In addition, the city-state has also developed a highly regulated heteronormative social policy, within which sexuality is managed through discourses of the family.

Despite this, queer culture and queer space in Singapore has emerged through reforms that have occurred in the culture and under the purview of the state. As stated by Prime Minister Lee:

De facto, gays have a lot of space in Singapore. Gay groups hold public discussions. They publish websites ... There are films and plays on gay themes ... There are gay bars and clubs. They exist. We know where they are ... We do not harass gays ... And we do not proactively enforce section 377A on them. (Lee, 2007)

What is of interest about Singapore is that in terms of human rights activism, LGBT rights claims have been reconceptualised within the Singaporean political and legal context and culturally translated by the queer social movement in ways that are innovative but also aware of the difficulties faced by the legal situation.

In this sense, queer claims for human rights in Singapore do not travel down a “normalising and assimilationist” trajectory in terms of legal reform (Yue, 2012, p. 7). Rather, when considered as a language, human rights can be translated into innovative approaches to claims of social recognition. The annual Pink Dot event, for example, which has occurred since 2008 in a prominent public space, and which is explicitly a Singaporean LGBT event, has gained greater and greater participation with enormous corporate backing. In 2015, there were over 28,000 participants. The Pink Dot annual celebration of LGBT Singaporean citizens and their families has become a key cultural event in the public sphere.

The Pink Dot celebration has become a strategic, contextual and pragmatic adaptation by the LGBT community to the socio-political and legal conditions of Singapore. As Offord has noted elsewhere:

It is not a demonstration against the State, nor does it promote or incite any sense of confrontation. But it is clearly, as a communal event with thousands of people, a means of mobilisation and commitment towards social recognition of LGBT people. This is an example of Singaporean style (human rights) activism. What is not clear yet is whether cultural expressions such as the Pink Dot will ultimately affect any social change or legal change. (2014, p. 316)

Whether this occurs or not, what we can suggest is that LGBT activism and claims for human rights when understood through this cultural framework is asymmetrical and unpredictable. As such, investigating the cultural dynamics at work is also pivotal as a way of understanding how LGBT human rights activism operates in Southeast Asia.

### **Human Rights Regimes: The Politics and Practices of Rights Claims**

With the clear identification of LGBT rights as human rights at the United Nations, and with the embrace of human rights regimes at the regional and state levels in Southeast Asia, it may be supposed that LGBT populations would be able to get some traction against these regimes for the advancement of their rights. However, as has been argued earlier, matters are rarely so straightforward. A critical evaluation of the region’s ostensible commitment to human rights helps to illustrate why.

Human rights have recently changed status in the Southeast Asian region. They have moved from being an unacceptable artifact of Western meddling and interference, the antitheses of “Asian values”, to being a formally recognised element of the ASEAN Charter (Tan, 2011; On “Asian values” see Langlois, 2001). The last half-decade has seen the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the promulgation in 2012 of the ASEAN Human Rights Declaration. The AICHR has also been busy with specific human rights issue developments, such as Declarations on the elimination of violence against women and children (both in 2013). Human rights have been deliberately brought into the ASEAN political and economic project; they are a critical component of the ASEAN’s attempts to establish a more “people oriented” ASEAN and a part of the broader project of making ASEAN a more rule-bound governmental association (Collins, 2008).

What might this mean for LGBTQ people in the region? What difference does it make (cf. Langlois, 2014)? One way to consider this question is to think about human rights not just as elements of a legal regime – declarations made by governing bodies (states or regions) to establish their *bona fides* with respect to global governmental regimes – but as moral and ethical ideas that human persons use as they struggle to be free, to be protected against harm and wrong doing, and to be the masters of their own social, political and economic destinies. By beginning to think about the making of rights claims by ordinary people on the ground, and thus considering the political imaginary that is required for this process of rights claiming, any analysis of the appearance and performance of the new ASEAN regional human rights regime is complicated (cf. Zivi, 2011).

Most fundamentally, the introduction of what might be called “the human rights imaginary”, as an apparently newly legitimate form of political discourse, enables people to examine how they are being treated, and how they are allowed to live, against a normative standard built around freedom and protection. Moreover, it *authorizes* them *normatively* to make claims against maltreatment. It should come as no surprise then, that when the ASEAN Human Rights Declaration is promulgated in a form that *excludes* protections for sexual orientation and gender identity, there was significant dissent:

We, the ASEAN LGBTIQ Caucus are outraged and disappointed by the decision of the ASEAN Head of States to adopt the AHRD that intentionally excludes sexual orientation and gender identity (SOGI). Despite countless attempts and demands by the members of civil society, including LGBTIQ groups, to push for its inclusion, ASEAN have remained reticent to the attempts. This AHRD not only shows a lack of respect to LGBTIQ people but also makes a mockery of the international human rights values and principles that all nations and citizens abide by and are held accountable to. (ASEAN LGBTIQ Caucus 2012)

The ASEAN Human Rights Declaration has been criticized widely for not meeting the standards of international best practice – and not just with respect to SOGI rights (Renshaw, 2013). As well as being part of the AICHR, many individual states within ASEAN have National Human Rights Institutions (Croydon, 2013). These are governmental bodies which are charged with a human rights brief: Komnas HAM in Indonesia, SUHAKAM in Malaysia, the National Human Rights Commission in Thailand, and so on.<sup>4</sup> When these institutions or the states they serve do not accord with international best practice, they fail against an established standard – one that includes the protection of LGBTQ populations.

As the recent “Being LGBT in Asia” conference in Bangkok established through extensive reporting from LGBTQ civil society, many LGBT groups are turning to the recent uptake by state and regional governmental institutions of human rights language (UNDP, 2015). Even when – or perhaps *particularly* when – human rights regime instruments *fail* to protect SOGI human rights, they have nonetheless contributed to authorizing a political language and imaginary in which the making of human rights claims, and the performance of rights claiming, becomes a legitimate activity (cf. Mackie, 2013). Nothing sure flows from this. But while the new regional human rights regime disappoints on LGBT rights, it nonetheless provides a politically-sanctioned stage for the further performance of human rights claims, and, for LGBT people among others, that stage is both one to watch, and one on which to perform.

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<sup>4</sup> See <http://www.asiapacificforum.net/establishment-of-nrhis/what-is-an-nhri> for further information about National Human Rights Institutions.

## Political Homophobia: The State as Hindrance or Help

In contrast to the preceding three perspectives, which deal with structures and their effects, the final one focuses on the state's role in relation to the protection of LGBT people's human rights. Conventionally, the state has been understood as the guarantor of its citizens' security. Yet the potential for the state to be a source of insecurity has been increasingly recognised, especially in instances where the state's interests clash with those of individuals or particular societal groups (Bilgin, 2003). The lack of protection, not to mention marginalisation and persecution, experienced by LGBT people in many countries highlights the importance of recognising that while states can be a key actor in institutionalising the protection of the rights of LGBT people, the potential for states to harm LGBT people must equally be recognised and interrogated with a view to understanding why, how and when the state is likely to hinder rather than help.

Bosia and Weiss' (2013, p. 5) conceptualisation of political homophobia as a “specifically *political* and *modular* force” that is used to make “overt claims to political legitimacy through homophobia” provides the starting point for analysis of the state's impact on the lives of LGBTQ individuals. Careful to distinguish political homophobia from “private, religious and interpersonal sentiments that have not been taken up as political tools”, Bosia and Weiss define political homophobia as “a state strategy, social movement, and transnational phenomenon [that is] powerful enough to structure the experiences of sexual minorities and expressions of sexuality” (2013, pp. 2, 5).

Uganda's “Kill the Gays” bill and Russia's anti-homopropaganda law are arguably the most extreme and highest profile instances of political homophobia in recent years. However, examples can be found in a considerable number of countries including the Balkans (Miglierina, 2014), Kyrgyzstan (Wilkinson, 2014b), Egypt (A Paper Bird, 2014) and Iran (Korycki & Nasirzadeh, 2013). In Southeast Asia, Malaysia is perhaps the clearest case due to the conviction of Anwar Ibrahim on sodomy charges in 1998 and 2014 and the Ministry of Education's publication of a “gay symptoms” guide in 2012 (Mosbergen, 2012), although, as Weiss (2013) observes, homophobic “anticipatory counter-movements” have also been seen in Singapore, Indonesia, the Philippines.

The reasons behind a state's utilisation of political homophobia are inevitably context-specific. Nonetheless, it is possible to identify a range of common political motivations. First, political homophobia can function as a display of state-building, facilitating the demonstration of external sovereignty and state power by challenging international norms. Second, it can serve as a basis for nation-building and a vehicle for nationalism by providing a gendered other against which to determine national identity. Third, it can be used as a form of populist regime maintenance by amplifying moral panic over deviant and immoral sexualities and genders. Finally, political homophobia can be a policy response to a perceived threat to local values and identities.

There is considerable overlap and interconnection between these motivations. However, it is when political homophobia is framed as being about the protection of “traditional values” that it is arguably most pernicious for the protection of the human rights of LGBT people. Proponents of “traditional values” argue that, rather than reflecting application of the principle of non-discrimination on the basis of identity, recognition of LGBT human rights is the legitimisation of behaviour that is immoral, unnatural and harmful to society. In order to prevent this, and maintain human dignity, countries such as Russia have argued with some success at the UN Human Rights Council (UNHRC) as well as domestically that the

“traditional values of mankind” should be the basis for human rights promotion (Wilkinson, 2014a).

The sticking point in this argument is what exactly is meant by “traditional values”. Explicit definitions remain notably absent, but certain common characteristics in “traditional values” discourses are evident: 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. In conjunction with the explicitly homophobic, transphobic and anti-feminist stance of many “traditional values” advocates, it is evident that the underpinning vision is strongly patriarchal, heteronormative, pronatalist and theocratic, and involves a shift from notions of the universality of human rights and social justice to the right of discriminate on the basis of moral judgements about others’ behaviour. Interpreted in this way “traditional values” act as de facto legitimization of discrimination not just against LGBT people, but anyone whose sexuality and/or gender is – or is perceived to be – non-normative.

While “traditional values” discourses provide a particularly strong challenge to achieving recognition of LGBT people’s human rights, regardless of the motivation the consequences of political homophobia are far reaching. For LGBT people and the gender non-normative, it means the perpetuation of a “chilly” socio-political climate in which there is little or no protection from scapegoating, exclusion, marginalisation, discrimination and violence, even in the absence of criminalisation. More widely, political homophobia changes the state from being a guarantor of its inhabitants’ security to being a moral arbiter and agent of sexual and gender regulation – a role that turns it from help to powerful hindrance in efforts to protect the human rights of LGBT people as politics and power are prioritised over people.

### **Conclusion: Examining the LGBT Rights Elephant in Context**

As the perspectives discussed in the preceding section demonstrate, the effective promotion and protection of the human rights of LGBT people in Southeast Asia begins with careful holistic examination of the LGBT Rights Elephant. In addition to taking account of its vital statistics, such examination needs to include consideration of its history, its character and its interactions with the local habitat. If legislation provides a theoretical benchmark for the state of LGBT human rights, then as has been shown, it is only via concepts such as demosprudence, queering culture, the performance of rights claims, and political homophobia that we begin to develop a nuanced and contextualized picture of the elephant’s health and the issues affecting it. To return to the analogy used in the opening section, it is only when this has been done that is it possible to dance together successfully in order to achieve the aim of furthering recognition and protection of LGBT people’s human rights in Southeast Asia, or indeed any other region of the world.

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