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LGBTI PEOPLE AND EMPLOYMENT

Discrimination

BASED ON SEXUAL ORIENTATION,
GENDER IDENTITY AND EXPRESSION,
AND SEX CHARACTERISTICS
IN CHINA, THE PHILIPPINES
AND THAILAND

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United Nations Development Programme
Bangkok Regional Hub
United Nations Service Building, 3rd Floor Rajdamnern Nok Avenue,
Bangkok 10200, Thailand
Email: registry.th@undp.org
Tel: +66 (0)2 304-9100
Fax: +66 (0)2 280-2700
Web: <http://asia-pacific.undp.org/>

LGBTI People and Employment

Discrimination Based on Sexual Orientation,
Gender Identity and Expression,
and Sex Characteristics
in China, the Philippines and Thailand

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Foreword

Systemic stigma and discrimination based on sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) make lesbian, gay, bisexual, transgender, and intersex (LGBTI) people among the most marginalized populations in the Asia-Pacific region. One of the contexts where discrimination is often felt is the workplace, where throughout the employment cycle – from recruitment to performance evaluation and career development – LGBTI people face barriers to decent work that result in social exclusion, persistent poverty, and poor health outcomes. Lesbian and gay and bisexual people often experience discrimination in the workplace that includes lower income and fewer work benefits compared to their counterparts. For transgender people, employment discrimination often prevents them from accessing formal employment and pushes them to work in sub-standard labour conditions. Intersex people can experience marginalization as they are left out from laws and policies that protect against employment discrimination

The employment discrimination that LGBTI people face represents a fundamental challenge to achieving the 2030 Agenda for Sustainable Development's commitment of 'leaving no one behind'. In this light, addressing employment discrimination is therefore a crucial step in achieving a number of Sustainable Development Goals (SDGs), including gender equality (SDG 5), decent work (SDG 8), and reducing inequalities (SDG 10).

This report looks into SOGIESC-based employment discrimination in China, the Philippines and Thailand by analysing qualitative and quantitative data gathered from national dialogues with government, civil society, private sector, academia and other development partners. Through its strong partnership

platform, the United Nations Development Programme (UNDP) has worked with a broad range of stakeholders, including the International Labour Organization (ILO) and The Economist Events, to examine challenges and good practices on workplace diversity and inclusion, as well as to develop recommendations on supporting national governments and improving labour laws and policies to be inclusive of people with diverse SOGIESC.

Access to decent work forms an essential part of LGBTI people's lives and is deeply intertwined with their socio-economic empowerment and ability to participate in the public sphere. Along with government and civil society, the private sector has a critical role in advancing inclusive development. UNDP remains committed to working closely with national governments, civil society partners, and the private sector to ensure social inclusion in the workplace for LGBTI people.

The UNDP Strategic Plan 2018–2021, which aims to help countries achieve the 2030 Agenda for Sustainable Development, affirms that reducing gender inequalities and empowering vulnerable groups are vital to achieving the SDGs. It is within the context of this plan that this report is aimed at empowering LGBTI civil society and informing legal, policy and social changes that lead to diversity and inclusivity in the workplace.



Jaco Cilliers

Chief Policy and Programme Support
UNDP Bangkok Regional Hub

Acknowledgements

The LGBTI People and Employment: Discrimination Based on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics in China, the Philippines and Thailand report was developed by UNDP and ILO to examine the extent and forms of discrimination based on sexual orientation, gender identity or expression, and sex characteristics (SOGIESC).

The author of this report is Professor Suen Yiu Tung, The Chinese University of Hong Kong. Busakorn Suriyasarn is the contributing author, and Andy Quan and Angel Treesa Roni, Research Assistant, UNDP Bangkok Regional Hub edited the report.

Sirinapha Jittimane, Fonthip Kongboonkeaw, Myat Min, Jawying Lyster, UNDP Bangkok Regional Hub prepared the online survey data base and conducted initial data analysis of the survey results. Katri Kivioja, Programme Specialist provided guidance on the analysis and interpretation of the findings.

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Edmund Settle, Policy Advisor, Katri Kivioja, Programme Specialist, and Chun Yin Lee, Project Officer on Private Sector and LGBTI Inclusion,

UNDP Bangkok Regional Hub; James Yang, UNDP China; Fe Cabral, UNDP Philippines; and Supanee 'Jay' Pongruengphant, UNDP Thailand managed the development of this report.

The development of the report was supported by UNDP through the Being LGBTI in Asia programme, a regional programme aimed at addressing inequality, violence and discrimination on the basis of sexual orientation, gender identity and expression, and intersex status, which promotes universal access to health and social services.

It is a collaboration between governments, civil society, regional institutions and other stakeholders to advance the social inclusion of lesbian, gay, bisexual, transgender and intersex (LGBTI) people. The programme recognizes that LGBTI people are highly marginalized and face varied forms of stigma and discrimination based on their distinct sexual orientations and gender identities and expressions.

The programme is supported by UNDP, the Embassy of Sweden in Bangkok, the U.S. Agency for International Development (USAID), the Australian Department of Foreign Affairs and Trade, and the Faith in Love Foundation (Hong Kong).

Acronyms and abbreviations

ACWF	All-China Women's Federation (China)	IRR	Implementing Rules and Regulations (Philippines)
ADO	Anti-Discrimination Ordinance (Philippines)	LBT	Lesbian, bisexual and transgender
AFP	Armed Forces of the Philippines	LGBT	Lesbian, gay, bisexual and transgender
AHRD	ASEAN Human Rights Declaration	LGBTI	Lesbian, gay, bisexual, transgender and intersex
BPO	Business processing outsourcing (industry)	MSM	Men who have sex with men
CHR	Commission on Human Rights (Philippines)	MOHRSS	Ministry of Human Resources and Social Security (China)
CSC	Civil Service Commission (Philippines)	MOL	Ministry of Labour (Thailand)
CSR	Corporate Social Responsibility	MSDHS	Ministry of Social Development and Human Security (Thailand)
CSS	Civil Servant System (Thailand)	NAPOLCOM	National Police Commission (Philippines)
CESCR	Committee on Economic, Social and Cultural Rights (United Nations)	NGO	Non-governmental organization
ESCAP	Economic and Social Commission for Asia and the Pacific (United Nations)	NHRC	National Human Rights Commission (Thailand)
GSIS	Government Service Insurance System (Philippines)	NHRI	National Human Rights Institution
ICESCR	International Covenant on Economic, Social and Cultural Rights	NHSP	National Health Security Program (Thailand)
IDAHOT	International Day Against Homophobia, Transphobia and Biphobia	NSWPC	National Social Welfare Promotion Commission (Thailand)
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association	OHCHR	Office of the High Commissioner for Human Rights
IGLHRC	International Gay and Lesbian Human Rights Commission (now Outright Action International)	PESO	Public Employment Service Office (Philippines)
ILO	International Labour Organization	PFIP	Philippine Financial Industry PRIDE
INGO	International Non-Governmental Organization	PHP	Philippine peso (currency)
		PHRC	Presidential Human Rights Committee (Philippines)
		PNP-HRAO	Philippine National Police Human Rights Affairs Office
		PRIDE	Promoting Rights, Diversity and Equality in the World of Work (ILO)

PSLINK	Public Services Labor Independent Confederation (Philippines)	TEA	Togetherness for Equality and Action (Thailand)
RMA	Rainbow Media Award (China)	THB	Thai baht (currency)
RMB	Ren Min Bi (currency, China)	UDHR	Universal Declaration of Human Rights
RSAT	Rainbow Sky Association of Thailand	UHC	Universal health coverage (Thailand)
SAIC	State Administration Industry and Commerce (China)	UN	United Nations
SDGs	Sustainable Development Goals	UNDP	United Nations Development Programme
SOGI	Sexual orientation and gender identity	USAID	United States Agency for International Development
SOGIE	Sexual orientation, gender identity or expression	WAFD	Department of Women's Affairs and Family Development (Thailand)
SOGIESC	Sexual orientation, gender identity or expression, and sex characteristics	Wor Lor Por	Committee on Consideration of Unfair Gender Discrimination (Thailand)
SSS	Social Security System (Philippines, Thailand)	WAFD	Department of Women's Affairs and Family Development (Thailand)
Sor Tor Por	Gender Equality Promotion Committee (Thailand)	Wor Lor Por	Committee on Consideration of Unfair Gender Discrimination (Thailand)
STIs	Sexually Transmitted Infections		

Executive summary

Achieving decent work for all is one of the 17 Sustainable Development Goals (SDGs)¹ and an important component of the post-2015 development agenda. This agenda has equality and non-discrimination at its heart and a commitment to “leave no one behind.” However, employment discrimination is a major obstacle to achieving this goal.

LGBTI People and Employment: Discrimination based on sexual orientation, gender identity and expression, and sex characteristics in China, the Philippines and Thailand is the first systematic study to examine the extent and forms of discrimination based on sexual orientation, gender identity or expression, and sex characteristics (SOGIESC) in China, the Philippines and Thailand. Sexual orientation relates to sexual attraction to one or more genders. Gender identity and expression relates to how a person identifies or expresses themselves (or not) in relation to gender. Sex characteristics relate to anatomical and physical features of a person, and are usually discussed in relation to people who are intersex.

The study was mixed method and included a desk review of existing studies on the subject in the three countries, a review of quantitative data collected through online surveys with 1,571 respondents in China, the Philippines and Thailand, and qualitative data gathered from national discussions with 151 participants representing various stakeholders.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people in China, the Philippines and Thailand do not have adequate legal protection from discrimination in the workplace. Among the three countries in this study, only Thailand

has a national law, the Gender Equality Act B.E. 2558 (2015), that provides protection against discrimination based on gender expression, although it is still unclear whether this also covers sexual orientation, gender identity and sex characteristics.

In the Philippines, some limited legal protection for LGBT people exists at the local level. Local ordinances protecting people against discrimination based on sexual orientation and/or gender identity, along with other grounds, only exist in 5 provinces, 15 cities, 1 municipality and 3 *barangays* (villages), covering 10 percent of the population. In both countries, implementation regulations are inadequate, and existing laws and ordinances that ban employment-related discrimination and harassment are not widely known or implemented, or contradict other laws or policies.

China does not have national laws that provide specific protections to LGBTI people against discrimination in general or in the workplace. Relevant progress in China has so far been focused on the removal of homosexuality from the official list of mental illnesses and legal gender recognition for transgender people subject to restrictive requirements. Intersex people are not mentioned in China’s laws.

Quantitative data was collected through online surveys with 1,571 respondents in China, the Philippines and Thailand. Survey results indicated that LGBTI people who work in Asia are a diverse group in terms of age, educational level, religion and ethnicity. They come from both urban and rural areas, work for both the private and government sectors and have varied levels of income.

1 UN (2016). Sustainable Development Goals (SDGs). Available at: <http://www.undp.org/content/undp/en/home/sustainable-development-goals.html>

Employment studies relating to LGBT people and SOGIE-based discrimination often omit intersex people or discrimination based on sex characteristics. In this study, some 72 out of 1,571 survey respondents self-identified as intersex. However, in this study, where data on intersex people is unavailable or a reference is made only to LGBT people in the report, the LGBT acronym is used.

The experiences of LGBTI people in the workplace in Asia are generally negative. The survey indicates that they experience difficulties right from the beginning of job searches. More than 60 percent of the respondents in China, the Philippines and Thailand said they had seen a job advertisement that explicitly excludes their SOGIESC in the job requirement. And 10 percent in China, 21 percent in the Philippines, and 28 percent of respondents in Thailand believed that they were denied a job due to their SOGIESC.

Additionally, 21 percent of respondents in China, 30 percent in the Philippines and 23 percent in Thailand reported being harassed, bullied or discriminated against by others at work due to their SOGIE and/or intersex status in their current or latest workplace. The top three negative treatments reported were the same for all three countries including people making jokes or slurs about LGBTI persons, gossiping or sharing rumors about certain LGBTI co-workers, or making critical comments about how LGBTI co-workers dress, behave or speak.

LGBTI people who are more open about their SOGIE or intersex status, especially transgender people, and those who work in the public sector (national and local government and state-owned enterprises) reported experiencing higher levels of discrimination at work. Lower levels of workplace discrimination were reported in multinational companies and international non-governmental organizations (INGOs).

It was found that many LGBTI people felt the need to hide their SOGIE or intersex status in the workplace. LGBTI people who had been subject to discrimination also reported feeling less satisfied with their job and are more likely to consider looking for a new job.

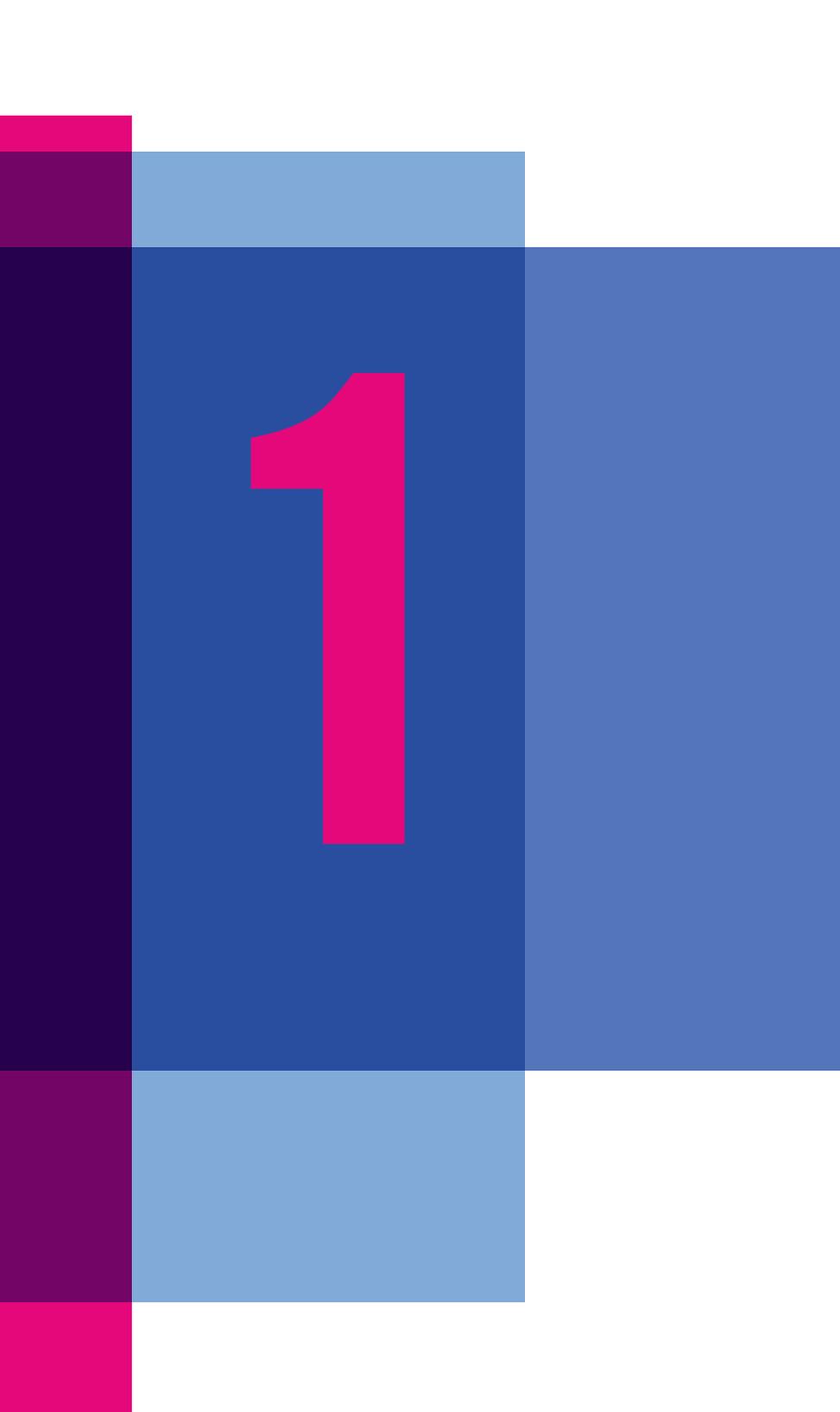
There is little recourse to remedy workplace discrimination experienced by LGBTI people: 7 percent of respondents in China, 29 percent in the Philippines and 23 percent in Thailand said that a sexual orientation non-discrimination policy exists in their organization, and 6, 41 and 29 percent of the respondents respectively said that a gender identity non-discrimination policy exists in their organization. Only 5 percent of the respondents in China, 20 percent in the Philippines and 17 percent in Thailand stated that their organizations have an official complaint procedure for LGBTI discrimination cases.

Only around 30 percent of the respondents who experienced workplace harassment, bullying and discrimination reported the problem. When they did so, it was mostly to the immediate supervisor or the human resources department. Even smaller percentages were satisfied with the result (16 percent in China and 24 percent in the Philippines). Only in Thailand did more than half (53 percent) find a satisfactory outcome to their complaint.

The few workplaces in Asia that have LGBTI-inclusive policies see positive impacts. The higher number of protective policies correlates with less experience of workplace discrimination in all three countries and higher levels of reported job satisfaction by LGBTI people.

Through the regional and national dialogues, it was found that in order to address workplace discrimination against LGBTI people, cross-sectoral cooperation between the government, private sector, all levels of educational institutions, workplaces, media, civil society and other stakeholders is needed. Also, policies, training and implementation, and efforts to make general changes in social attitudes are needed.

Finally, government and the private sector should develop and implement formal policies and dispute resolution mechanisms for non-discrimination and equal treatment of LGBTI employees. Training and awareness-raising are needed to make sure such policies and mechanisms are properly implemented.



1

Introduction



Achieving decent work for all is one of the 17 Sustainable Development Goals (SDGs) and an important component of the post-2015 development agenda. This agenda has equality and non-discrimination at its heart and a commitment to “leave no one behind.” However, employment discrimination is a major obstacle to achieving this goal.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people are among the most marginalized groups worldwide. They continue to face stigma, discrimination and violence based on sexual orientation, gender identity or expression, and sex characteristics (SOGIESC) in different domains of life, including education, access to services, and, as the focus of this report suggests, employment.

Globally, LGBTI people are underrepresented in studies on employment discrimination, and in Asia, research in this area is still at an early stage. This report, *LGBTI People and Employment: Discrimination based on sexual orientation, gender identity and expression, and sex characteristics in China, the Philippines and Thailand*, is part of an ongoing effort to widen the evidence base on LGBTI-related issues. It is a product of a regional study conducted under the Being LGBTI in Asia Programme implemented by the United Nations Development Programme (UNDP) and a part of a wider strategies of UNDP and ILO to address discrimination against marginalized groups and ensure representative and inclusive development practices.

The primary audience of this report includes governments, policymakers, the private sector, employment experts, and civil society and LGBTI organizations. The information and data in the report can also be used to link LGBTI inclusion efforts to the broader development agendas of bilateral and multilateral donors, development partners and the UN system.

This study was conducted from October 2015 to September 2016 in China, the Philippines and Thailand to investigate the extent and forms of employment discrimination experienced by LGBTI people in accessing employment and in

the workplace. It also documented challenges, good practices and recommendations from stakeholders for tackling LGBTI employment discrimination, with an aim of providing a comprehensive baseline for further study of employment discrimination in the region.

The study was mixed method and included a desk review of existing studies on the subject in the three countries and a review of quantitative data collected through online surveys with 1,571 respondents in China, the Philippines and Thailand, and qualitative data gathered from national discussions with 151 participants representing various stakeholders.

The report contains six chapters:

Chapter 1 introduces the aims and objectives, scope, audience and structure of the report.

Chapter 2 provides an international and regional overview of the context, policies and frameworks for SOGIESC rights in the workplace. It then looks at the context in each of the three countries studied.

Chapter 3 explains the research methods and the study limitations.

Chapter 4 provides detailed analyses of quantitative research findings from the online surveys and is the main findings chapter of the report.

Chapter 5 focuses on qualitative findings from the national dialogues. It discusses key points in recent regional and national dialogues among stakeholders on LGBTI-inclusive workplaces, as well as the role of the private sector, positive initiatives, existing opportunities and the way forward in the three countries studied.

Chapter 6 gives a summary of research findings and recommendations to government, private sector, and LGBTI communities and civil society.



2

**Research
methodology**



The mixed-method study included a desk review of existing studies on the subject in the three countries and a review of quantitative data collected through online surveys with 1,571 respondents in China, the Philippines and Thailand and qualitative data gathered from national discussions with 151 participants representing various stakeholders.

2.1 Desk review

The desk review focused on two key areas: laws and policies relating to SOGIESC rights, gender equality and non-discrimination protection, in particular those with implications on the opportunities for and the treatment of LGBTI people in employment and occupations; and existing research, surveys and academic studies that discuss employment issues concerning LGBTI people. In addition, updates on recent developments in these areas were gathered from media reports. The desk review was conducted for China, the Philippines and Thailand.

2.2 Quantitative data collection

Quantitative data was collected through an online survey conducted from 21 March to 2 May 2016 using SurveyMonkey, a software service providing tools for surveys, in Thailand (Thai language) and the Philippines (English language), and from 29 August to 30 September 2016 in China (Chinese language). The online survey was distributed mostly through LGBTI networks.

The online survey contained 48 questions, including 41 multiple-choice questions and 7 sets of rating-scale questions (see the online survey questions in Annex B). The surveys were almost identical across the three countries, with the exception of some country-specific demographic questions such as those related to ethnicity, geographical regions and religion. The answer choices for the question on gender identity were also slightly different due to different local terms and nuances.

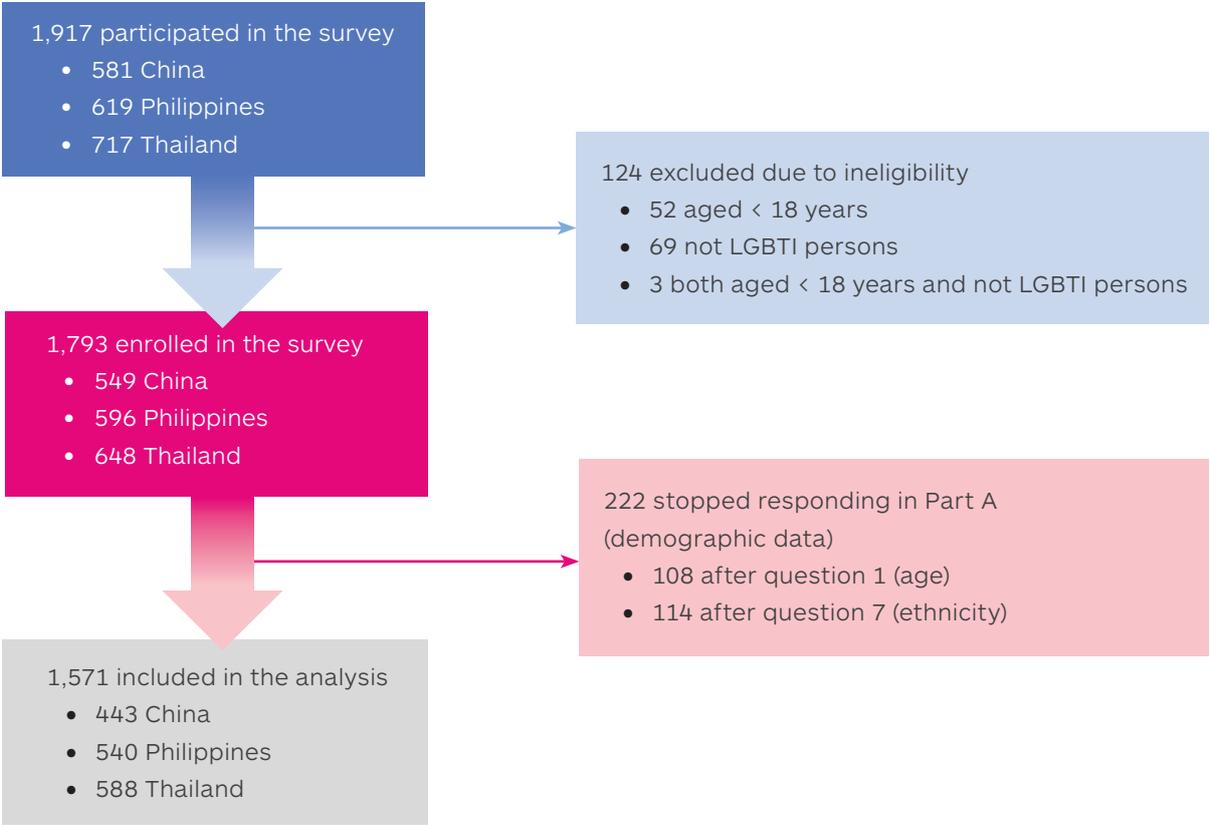
The survey was divided into 6 parts as follows:

- Part 0:** Confirmation of eligibility (2 screening questions)
- Part 1:** Demographic data (13 questions)
- Part 2:** Openness and acceptance (5 questions)
- Part 3:** Employment experience (18 questions)
- Part 4:** Job search experience (5 questions)
- Part 5:** Access to health care (5 questions)

In total, 1,917 people participated in the online survey from China, the Philippines and Thailand (see Figure 1). 346 survey participants (18.1 percent) were excluded from the final analysis due to ineligibility (124 or 6.5 percent) and early survey incompleteness (246 or 11.6 percent). 1,571 respondents were considered eligible; they were at least 18 years old and self-identified as LGBTI: 443 from China, 540 from the Philippines and 588 from Thailand. These respondents were included in the analysis of openness and acceptance questions.

Figure 1: Online survey demographic statistics by country

Online survey enrollment



Of the 1,571 eligible respondents in the statistical analysis, 74.3 percent had job search experience and 68.3 percent had work experience and completed all sub-questions for job search and work experience respectively, and were thus included in the analysis for job search and workplace experience.² The final descriptive

analysis included 1,168 respondents who were 18 years or older, self-identified as LGBTI, and had job search experience (for entry to work) and a further 1,073 who also had work experience (for experience in the workplace) (see Table 1).

Table 1: Respondents with job search experience and work experience who gave full responses and were thus included in the statistical analysis for job search and work experience

Respondents with	China	Philippines	Thailand	Total
Job search experience	297 (67.0%)	407 (75.4%)	464 (78.9%)	1,168 (74.3%)
Work experience	275 (62.1%)	378 (70%)	420 (71.4%)	1,073 (68.3%)
Total eligible respondents	443 (100%)	540 (100%)	588 (100%)	1,571 (100%)

² Of 1,517 eligible respondents, 196 (12.5 percent) reported having no job search experience and 207 (13.2 percent) did not answer this question, while 86 (5.5 percent) reported having no work experience and 412 (26.2 percent) did not answer this question.

In terms of gender identity, more than half of the respondents identified as cisgender men or cisgender women (i.e. men and women whose gender identity corresponds with their sex assigned at birth), and around 10 percent as trans women and 9 percent as trans men, with the rest choosing “other” as their gender identity (including gender queer/neutral/non-binary and any other self-prescribed label or no label). As shown in Table 2, China had the highest

representation of cisgender men (51.9 percent), Thailand had the highest representation of cisgender women (40.3 percent), and the Philippines had the highest representation of those who identified themselves with an “other” gender identity (56.1 percent), largely self-identified as “third gender” or *bakla* and tomboy (and primarily gay, lesbian or bisexual). Thailand also had the highest representation of trans women³ (11.6 percent) and trans men (13.8 percent).

Table 2: Gender identities of respondents

	Cisman	Ciswoman	Trans woman	Trans man	Other	Total
China	230 (51.9%)	108 (24.4%)	40 (9%)	36 (8.1%)	29 (6.5%)	443 (100%)
Philippines	99 (18.3%)	67 (12.4%)	46 (8.5%)	25 (4.6%)	303 (56.1%)	540 (100%)
Thailand	96 (16.3%)	237 (40.3%)	68 (11.6%)	80 (13.8%)	107 (18.2%)	588 (100%)
Total	425 (27.1%)	412 (26.2%)	154 (9.8%)	141 (9%)	439 (27.9%)	1,571 (100%)

Note: Gender identities were confirmed and classified by an expert panel using a two-step method⁴

In terms of sexual orientation, a little more than one-third (37.2 percent) self-identified as gay, nearly one-third (29.2 percent) as lesbian, about one-fifth (18.8 percent) as bisexual, 5.9 percent as heterosexual and 8.9 percent had

other sexual orientations. The distribution of sexual orientation varied across countries, with gay and bisexual respondents predominating the China and Philippine samples, and lesbians predominating the Thailand sample (see Table 3).

Table 3: Sexual orientations of respondents

	Gay	Lesbian	Tom-lesbian	Bisexual	Heterosexual	Other*	Total
China	207 (46.7%)	85 (19.2%)	-	93 (21%)	25 (5.6%)	33 (7.4%)	443 (100%)
Philippines	243 (45%)	96 (17.8%)	-	137 (25.4%)	28 (5.2%)	36 (6.7%)	540 (100%)
Thailand	134 (22.8%)	183 (31.1%)	94 (16%)	66 (11.2%)	40 (6.8%)	71 (12.1%)	588 (100%)
Total	585 (37.2%)	364 (23.2%)	94 (6%)	296 (18.8%)	93 (5.9%)	140 (8.9%)	1,571 (100%)

*Includes asexual, pansexual, uncertain, fluid and others.

3 Thai trans women include respondents who self-identified as trans women, *katoey* and *sao praphet song*.

4 The Williams Institute (2013). *Gender-related measures overview*. Available at: <https://williamsinstitute.law.ucla.edu/wp-content/uploads/GenIUSS-Gender-related-Question-Overview.pdf>

Note that for Thailand, the lesbian category was split into (cisgender) *lesbian* and (masculine) *tom-lesbian* due to the distinct self-identification of these two categories in the local cultural context.

There were 72 self-identified intersex respondents in the survey sample, representing 4.6 percent of the total number of respondents.

All participants were assured that their participation in the survey would be completely anonymous.

Table 4: Respondents with intersex characteristics

Respondents with	China	Philippines	Thailand	Total
Intersex characteristics	13 (2.9%)	22 (4.1%)	37 (6.3%)	72 (4.6%)
No intersex characteristics	430 (97.1%)	518 (95.9%)	551 (93.7%)	1,499 (95.4%)
Total respondents	443 (100%)	540 (100%)	588 (100%)	1,571 (100%)

2.3 Qualitative data collection

Qualitative data was collected from two Executive Dialogues and three national focus group discussions in China, the Philippines and Thailand during October 2015 and March 2016. Five events in three countries brought together a total of 151 participants representing stakeholders from various sectors, including business leaders, representatives from LGBTI and wider civil society organizations, government bodies, trade unions and leading experts.

Two one-day executive dialogues were jointly organized by UNDP and The Economist Events

in partnership with the ILO in Beijing on 16 October 2015 and Bangkok on 3 November 2015, bringing together more than 68 business leaders from multinational and national companies, experts from government and civil society, representatives of LGBTI communities, and partners from *The Economist* and the UN system (see Table 6 and Annex A for a list of organizations represented.) Participants of the Executive Dialogues discussed the business case for LGBTI inclusion in the workplace and shared perspectives on inclusive corporate policies as well as good practice examples in creating an LGBTI-inclusive workplace environment.

Table 5: Sectors represented in Executive Dialogues (16 October and 3 November 2015)

Sectors	China	Thailand	Total
Multinational companies	8	3	11
National companies	5	5	10
Civil society	12	6	18
Government, trade unions and academics	5	8	13
UN, The Economist and development partners	5	11	16
Total	35	33	68

Three one-day national focus group discussions were organized in China, the Philippines and Thailand. The first two national discussions were organized by UNDP in Beijing on 26 January and in Bangkok on 4 February 2016. The discussion in Manila on 29 March 2016 was jointly organized by UNDP, Hewlett Packard Enterprise and Rainbow Rights Inc. The 3 national discussions brought together 83 participants, including representatives from the private sector, relevant government bodies, research institutions, LGBTI and civil society organizations, and trade unions (see Table 7 and Annex A for a list of

organizations represented). The objectives of the national focus group discussions were to identify laws and policies concerning SOGIESC rights and protection against employment discrimination, key issues and challenges in achieving equal opportunities and treatment for LGBTI people in employment, good practice examples of organizational policies for LGBTI employees and gender diversity at work, and recommendations on how to address existing challenges and promote the inclusion of LGBTI people in the workforce.

Table 6: Sectors represented in national focus group discussions (January–March 2016)

Sectors	China	Philippines	Thailand	Total
Private sector	0	9	5	13
Government/public sector	1	6	5	12
LGBT and civil society	12	12	11	35
Trade union and academics	6	3	1	10
UN, The Economist and development partners	4	5	4	13
Total	23	35	26	83

2.4 Limitations of the study

The study of employment conditions of LGBTI people in Asia is still in its infancy and available literature on the subject is limited. The study covers only three countries. New primary quantitative and qualitative data were collected for all three countries and from secondary sources in a desk review. Therefore, findings should not be seen as representative of all of Asia.

While the employment cycle, according to international labour standards, covers *before* (e.g. education and training, access to employment), *during* (e.g. working conditions, equal pay for work of equal value, job benefits, career development and security of tenure), and *after* employment (retirement), this study focuses mainly on the *before* and *during* stages, that is, pre-employment (with emphasis on

education and access to employment) and during employment (with emphasis on treatment in the workplace and job benefits). Secondary data in existing literature on employment concerning LGBTI people in all three research countries is largely limited to pre-employment opportunities and workplace environment and treatment, with some information on access to benefits. The LGBTI samples in existing studies also tend to be young in the early to mid-career stages. Information is extremely scarce on wage levels of LGBTI workers as compared to the general population and on older LGBTI workers in their late career or retirement.

The survey sample for the three countries was small, particularly in China.⁵ The sample size was further reduced due to the high rates of unqualified and incomplete responses found in the online surveys. In the advanced analysis, in which respondents who gave incomplete

answers were removed, the numbers of respondents to questions on job search experience and treatment at work were reduced to 749 and 842 respectively, resulting in fewer than 300 respondents for each country. This affected the level of statistical confidence in analysis of some LGBTI subgroups, including trans women, trans men and intersex people.

The online survey sample was also heavily skewed towards the younger, better-educated and urban LGBTI populations, and white-collar jobs in the formal economic sector. This is likely due to online distribution systems through existing LGBTI social media networks in each country, which disproportionately favored

these population segments. The sample lacked adequate representation of LGBTI people from rural and ethnic and religious minority populations, and who are employed in the informal sector, which is where LGBTI people often work or seek employment.⁶ As a result, based on this survey sample, analysis of some important intersectional factors that may affect LGBTI people's experience of discrimination was not possible. Notwithstanding these limitations of this research, the findings provide a unique and invaluable source of data to better understand discrimination against LGBTI people in the workplace, and the policy action that is required to address it.

5 The largest national survey on social attitudes towards SOGIE was conducted in China in late 2015, involving over 30,000 participants. Potential respondents may have been tired of doing surveys, which might explain the low rates of response to this online survey which was administered not long after the other survey. A summary report of this survey, UNDP (2016). *Being LGBTI in China – A national survey on social attitudes towards sexual orientation, gender identity and gender expression*, op. cit., is available at: http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china/

6 Over 68 percent of people in Asia and the Pacific are employed in the informal sector. Since statistical data is skewed towards gender binaries, a breakdown of data on transgender, gender non-conforming and other alternative gender identities is not available. Due to lack of data, this study could not analyse the experiences of discrimination of LGBTI people in the informal sector. For more information on informal economy, see ILO (2018). *Women and Men in the Informal Economy: A Statistical Picture*. Available at: http://www.ilo.org/global/publications/books/WCMS_626831/lang--en/index.htm



3

Overview of LGBTI inclusion in the workplace

3.1 LGBTI people and workplace discrimination

Non-discrimination at the workplace is a fundamental workers' right. Two key conventions of the International Labour Organization (ILO), the Equal Remuneration Convention, 1951 (No.

100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) set the international standards on the elimination of discrimination at work.

BOX 1: WHAT IS DISCRIMINATION IN EMPLOYMENT AND OCCUPATION?

(a) Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.⁷

(b) Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

Article 1 (1), Discrimination (Employment and Occupation) Convention, 1958 (No. 111)⁸

Convention No. 100⁹ addresses pay discrimination on the ground of sex and all other grounds covered in Convention No. 111 and promotes equal pay for work of equal value for all workers. Convention No. 111 prohibits discrimination against all persons at all stages of employment on the seven grounds specified in the Convention (race, colour, sex, religion, political opinion, national extraction and social

origin) and other grounds covered in national law. The grounds of sexual orientation and gender identity or expression are not specifically stated in the Convention, although legislation in some States determines that the criterion of sex or gender includes SOGIE.¹⁰ Convention No. 111 calls upon member States to adopt and implement a national policy to promote equality of opportunity and treatment for all workers.¹¹

7 'Employment' refers to work performed under an employment relationship with an employer. 'Occupation' means the trade, profession or type of work performed by an individual, irrespective of the branch of economic activity or the employment status of the worker. ILO (2011). *Equality and non-discrimination at work in East and South-East Asia*. Bangkok, p.17. Available at: http://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@sro-bangkok/documents/publication/wcms_178415.pdf

8 The Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Available at: http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/ILO_C_111.pdf

9 The Equal Remuneration Convention, 1951 (No. 100). Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fs_84_en.pdf

10 Article 2 of Convention No. 111 states that "Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality and opportunity and treatment in respect of employment and occupation, with a view to eliminate any discrimination in respect thereof."

11 ILO (2014). *Gender identity and sexual orientation in Thailand*, p. 9. Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_356950.pdf

BOX 2: STAGES IN THE EMPLOYMENT CYCLE

- Access to education and vocational training and guidance
- Access to employment and use of employment services
- Access to particular occupations
- Conditions of work
- Equal remuneration for work of equal value
- Career development based on individual character, experience, ability and diligence
- Security of tenure
- After retirement

Source: ILO, Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Article 1(3) and Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), No. 111, Article 2(b).

BOX 3: EQUAL OPPORTUNITY AND TREATMENT IN EMPLOYMENT

Equal employment opportunity means that a person must have opportunities to secure access to training, placement or employment that are no less favourable than the opportunities of persons in the same or comparable situations.

Equal treatment in employment means that an employer must treat an employee no less favourably than other employees who are in the same or comparable situations.

Source: ILO, Equality and non-discrimination at work in East and South-East Asia (Bangkok, 2011), p. 17.

According to the ILO, LGBT people¹² people face discrimination throughout the employment cycle, from education and training, access to employment and refusal of employment to dismissal, denial of career training and promotion and access to social security. And, since LGBT workers are not well represented in government structures, employers' organizations and trade unions, their particular interests are rarely the subject of social dialogue or agreed upon in collective bargaining agreements. Consequently, when they encounter discrimination, harassment

or bullying, the avenues for workplace dispute resolution may be scarce.¹³

It has been recognized that the discrimination that LGBT people face in the workplace affects individuals, organizations and society. It brings psychological distress to individuals and renders employees in an organization less productive and less loyal. A positive correlation has been shown between providing more rights for LGBT people and a country's higher per capita income and higher levels of well-being.¹⁴

12 The ILO PRIDE studies and most other studies cited in this report use 'LGBT' as a collective term to refer to people with diverse SOGIE.

13 ILO (2014). Gender identity and sexual orientation in Thailand, op. cit.

14 M.V. Lee Badgett, S. Nezhad, K. Waaldijk and Y. van der Muelen Rodgers (2014). *The relationship between LGBT inclusion and economic development: An analysis of emerging economies*. Los Angeles, CA: The Williams Institute, UCLA Law School.

China and the Philippines have ratified both Conventions No. 100 and No. 111, though whether or not countries have ratified them, these conventions are among the eight fundamental ILO conventions that set the minimum standards of rights at work and apply to all ILO member States.

Furthermore, the ILO Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200)¹⁵ calls on ILO member States to promote the involvement and empowerment of all workers regardless of sexual orientation and whether or not they belong to a vulnerable group.¹⁶ The final report of the Global Commission on HIV and the Law and the UN Economic and Social Commission for Asia and the Pacific (ESCAP) Resolutions 66/10 and 67/9 also recommended that punitive and restrictive laws and policies targeting vulnerable communities be removed to reduce levels of social stigma, discrimination and violence.

3.2 The international development of LGBTI rights

The issue of employment discrimination and LGBTI people cannot be discussed without looking at the broader context of human rights of LGBTI people internationally, regionally and nationally. If LGBTI people are not protected from discrimination at all, it will be impossible to protect them from employment discrimination. Likewise, if LGBTI people's human rights are not recognized, protecting them from human rights violations related to the workplace becomes a greater challenge.

Equality and non-discrimination are fundamental principles of international human rights law. The Universal Declaration of Human Rights (UDHR) unequivocally states: "All human beings are born free and equal in dignity and rights" and in the early 2000s, the Committee on Economic, Social and Cultural Rights (CESCR) reiterated that "other status", recognized among the prohibited grounds in the International Covenant on Economic, Social and Cultural Rights (ICESCR), also included sexual orientation and gender identity (SOGI), as well as intersex variations.¹⁷

Since the UDHR in 1948, the global community has strived to strengthen rights protection for all people, including those with diverse sexual orientations, gender identities or expressions, or sex characteristics. The first acknowledgement that international human rights law applies to individuals was recorded in the Human Rights Council's decision in *Toonen v. Australia* in 1992 in relation to discrimination on the basis of sexual orientation.¹⁸

In November 2006, a distinguished group of human rights experts from 25 countries and diverse regions developed and adopted the Yogyakarta Principles to affirm binding obligations of States to implement human rights according to a broad range of existing international legal standards and their application to SOGI. Among the 29 principles were the right to equality and non-discrimination, the right to recognition before the law, the right to education, the right to work, the right to social security and to other social protection measures, and the right to freedom of peaceful assembly and association. While non-binding, the

15 Recommendation 200: Recommendation concerning HIV and AIDS and the world of work. Available at: http://www.ilo.org/ilc/ILCSessions/99thSession/texts/WCMS_142613/lang--en/index.htm

16 This recommendation, like all ILO recommendations, is not open for ratification but provides policy guidance for member States. Unlike conventions, recommendations are not legally binding.

17 Committee on Economic, Social and Cultural Rights (2009). 'General comment No. 20: Non-discrimination in economic, social and cultural rights' (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), 2 July, E/C.12/GC/20; and Silvan Agius et al. (2011). Human rights and gender identity: Best practice catalogue. ILGA Europe, TGEU, Dec., p. 9, cited in ILO (2014). Gender identity and sexual orientation in Thailand. Bangkok, p. 10.

18 The Human Rights Council held that the reference to the word "sex" in Article 2(1) and Article 26 of the International Covenant on Civil and Political Rights (ICCPR) was to be taken as including "sexual orientation". Asia Pacific Forum (APF) (2010). ACJ report: Human rights, sexual orientation and gender identity (APF 15). 15th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions. Bali, Indonesia, 3–5 August 2010, p. 11, cited in ILO (2014). Gender identity and sexual orientation in Thailand, op. cit., p. 10.

Yogyakarta Principles have become the principal document cited by human rights monitoring bodies at international, regional and national levels outlining how international human rights law applies to sexual orientation and gender identity.¹⁹ In 2017, the Yogyakarta Principles plus 10 was published; these document and elaborate on developments since 2006 through a set of Additional Principles and State Obligations.²⁰

In recent years, more countries have extended legal protection to LGBTI people through new laws and policies, including anti-discrimination and hate crime laws, and the legal recognition of same-sex partnerships and transgender identity.²¹ However, in many countries, LGBTI people continue to be denied full participation in society and face discrimination and violence without legal protection.

The first official report by the United Nations High Commissioner for Human Rights on human rights violations against individuals based on their sexual orientation and gender identity issued in November 2011 found a systematic pattern of discrimination and violence, from discrimination in employment, health care and education to the criminalization of homosexuality and targeted attacks and killings.²² In 2012, the United Nations Office of the High Commissioner for Human Rights (OHCHR) published a booklet *Born Free and Equal* as a tool for States, setting

out five core obligations that States have towards LGBT persons and steps in meeting these obligations, including to:

1. Protect individuals from homophobic and transphobic violence.
2. Prevent torture and cruel, inhuman and degrading treatment of LGBT persons.
3. Decriminalize homosexuality.
4. Prohibit discrimination based on sexual orientation and gender identity.
5. Respect freedom of expression, association and peaceful assembly for LGBT and intersex people.²³

These reports followed the adoption of the first-ever UN resolution on human rights, sexual orientation and gender identity in June 2011 and set in motion a new chapter of formal policy debates and actions on the global scale to end violence and discrimination against all people regardless of their sexual orientation, gender identity or expression.²⁴

A follow-up resolution, adopted in September 2014 with increased support from member States, requested an update with a view to sharing good practices and ways to overcome violence and discrimination in the application of existing international human rights law and standards.^{25, 26} In June 2016, a third resolution was adopted to appoint an Independent Expert

19 Domestic courts and tribunals have referenced the Yogyakarta Principles in Australia, India, Nepal and the Philippines. APF (2010). *ACJ Reference: Human rights, sexual orientation and gender identity* (APF 15), p. 17, cited in *ibid.*, pp. 11–12.

20 The Yogyakarta Principles plus 10 (2017). Geneva. Available at: http://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf

21 OHCHR (2012). *Born free and equal: Sexual orientation and gender identity in international human rights law*. New York and Geneva. Available at: <http://www.ohchr.org/Documents/Publications/BornFreeAndEqualLowRes.pdf>

22 Report of the United Nations High Commissioner for Human Rights. 'Discriminatory Laws and Practices and Acts of Violence against Individuals Based on their Sexual Orientation and Gender Identity' (A/HRC/19/41). Available at: http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf

23 OHCHR (2012). *Born free and equal*, *op. cit.*

24 *Ibid.*

25 The follow-up resolution (A/HRC/RES/27/32) adopted in September 2014 recorded a vote of 25 to 14, with 7 abstentions, compared to 23 to 19, with 3 abstentions for the first resolution (A/HRC/RES/17/19) adopted in June 2011. China abstained in the vote on both resolutions; Thailand voted for the June 2011 resolution, and the Philippines voted for the September 2014 follow-up resolution.

26 High Commissioner's report to the Human Rights Council on discrimination and violence against individuals based on their sexual orientation and gender identity (May 2015) A/HRC/29/23, Available at: <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNReports.aspx>

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 SOGI, and to identify and address the root causes of violence and discrimination.²⁷

Since the historic resolution in 2011, entities and agencies within the UN system have increasingly addressed issues concerning LGBTI people. In 2013, the UN launched a global education campaign, “Free & Equal”, to promote equality and the fair treatment of LGBTI people, and in 2015, 12 UN agencies issued a joint statement calling States to act urgently to end violence and discrimination against LGBTI adults, adolescents and children.²⁸ In the post-2015 development agenda, LGBTI people are recognized as being among the most vulnerable and marginalized groups because they often lack legal protection from discrimination and exclusion.²⁹

3.3 Regional context of LGBTI rights

In recent decades, the Asia-Pacific region has seen legislative and policy progress that has created more positive social environments for LGBTI people, such as the decriminalization of homosexual conduct, judicial decisions improving

or protecting the rights of transgender people, medical authorities' greater understanding of intersex people in some countries, and the enactment of anti-discrimination laws relating to SOGIE (intersex people are not covered).³⁰ LGBTI issues have been considered for the first time by many government agencies and national parliaments. National Human Rights Institutions (NHRIs) have recognized that their responsibilities extend to the protection and promotion of the rights of LGBTI people.³¹ The 2015 summary findings of the UNDP report *Leave No One Behind*, which draws from extensive literature reviews of 18 countries and national and regional dialogues, found increasing LGBTI visibility in the region through community mobilization, pride events and social media. The collaborative response to HIV has led to partnerships between LGBTI communities and governments, and brought greater attention to the legal and human rights contexts for LGBTI rights.³²

Challenges remain. The 2012 ASEAN Human Rights Declaration (AHRD) does not mention SOGIESC. Some governments noted their reservations about “sexual rights” and “sexual orientation and gender identity” in the Asian and Pacific Ministerial Declaration on Population and Development adopted in 2013, which affirmed gender equality and sexual and reproductive

27 The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity was mandated through Human Rights Council resolution 32/2 (A/HRC/RES/32/2). For more information on the Independent Expert, please see, OHCHR (2016). *Independent Expert of Sexual Orientation and Gender Identity*. Available at: <http://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/Index.aspx> (accessed 21 June 2017).

28 See: ILO, OHCHR, UNAIDS, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP and WHO (2015). *Joint United Nations statement on ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex people*. Available at: http://www.ohchr.org/Documents/Issues/Discrimination/Joint_LGBTI_Statement_ENG.PDF

29 UN (2015). *Equality and non-discrimination at the heart of the 2030 agenda: Toward a UN system-wide policy and joint plan on addressing inequalities and human rights for sustainable development*. CEB High-Level Committee on Programmes. Thirtieth session. New York, (CR-11), 12–13 October, CEB/2015/HLCPC-30/CRP.2.

30 UNDP (2015). *Leave no one behind: Advancing social, economic, cultural and political inclusion of LGBTI people in Asia and the Pacific – Summary*. Available at: http://www.asia-pacific.undp.org/content/dam/rbap/docs/Research%20&%20Publications/hiv_aids/rbap-hhd-2015-leave-no-one-behind.pdf

31 UNDP (2015). Report of the workshop on the role of national human rights institutions in promoting and protecting the rights, including health, of LGBTI people in Asia and the Pacific. Bangkok. 24–25 February. Available at: http://www.asia-pacific.undp.org/content/rbap/en/home/library/democratic_governance/hiv_aids/report-of-the-workshop-on-the-role-of-national-human-rights-inst.html

32 UNDP (2015). *Leave no one behind*, op. cit., p. 5

health and rights without discrimination on any grounds.³³ Conflict, religious extremism, weak governance, economic underdevelopment and traditional cultural values combine in ways to create barriers to open discussion and the inclusion of LGBTI people in many Asia-Pacific countries. While gay men and transgender women have higher visibility in social and policy discussions, particularly about HIV and health issues, lesbians, bisexual people, transgender men and non-binary people are often still neglected, and intersex issues are almost entirely absent. Moreover, intersecting factors compound social exclusion and marginalization of LGBTI people with multiple vulnerabilities. An LGBTI person who is low-income or from a low-income background, a migrant worker or sex worker, a member of an ethnic or indigenous minority, and/or a young or older person is likely to face multiple discrimination based on one or more of these statuses besides SOGIESC.³⁴

3.4 Legal and policy environment on LGBTI employment discrimination in China, the Philippines and Thailand

LGBTI people in China, the Philippines and Thailand are without adequate legal protection from discrimination in the workplace to a varying degree.

Among the three countries in this study, only Thailand has a national law, the Gender Equality Act B.E. 2558 (2015) that provides protection against discrimination based on gender expression, sexual orientation, gender identity and sex characteristics.³⁵

In the Philippines, some limited legal protection for LGBT people exists at the local level. Local ordinances that protect people against discrimination based on sexual orientation and/or gender identity along with other grounds only exist in 5 provinces, 15 cities, 1 municipality and 3 *barangays* (villages), covering just over one-tenth of the population.

In both countries, implementation of regulations is weak, and existing laws and ordinances that ban employment-related discrimination and harassment are not widely known or implemented, or contradict other laws or policies.

China does not have national laws that provide protection to LGBTI people against discrimination in general or in the workplace. Relevant progress in China has so far been focused on the removal of homosexuality from the list of mental illnesses. Though access to legal gender recognition for both transgender and intersex individuals is available in principle, it remains subject to restrictive requirements including surgery and the procedures are often unclear or inconsistent.³⁶ Intersex people are not mentioned in China's laws.

33 The Declaration was adopted at the Sixth Asian and Pacific Population Conference (APPC) attended by ministers and senior officials from 47 Asian and Pacific countries in Bangkok. The Conference was organized by the United Nations Economic and Social Commission for Asia and the Pacific in cooperation with the United Nations Population Fund (UNFPA). UNESCAP (2013). Asian and Pacific countries adopt groundbreaking agenda on population, development and rights, 21 September. Available at: <http://www.unescap.org/news/asian-and-pacific-countries-adopt-ground-breaking-agenda-population-development-and-rights>.

34 UNDP (2015). *Leave no one behind*, op. cit., p. 7.

35 Section 3 of the Gender Equality Act states that "Unfair gender discrimination means any act or omission of the act which causes division, discrimination or limitation of any right and benefit either directly or indirectly without justification due to the fact that the person is male or female or of a different expression from his/her own sex by birth."

36 UNDP (2018). *Legal Gender Recognition in China: A Legal and Policy Review*. (Forthcoming)

Table 7: SOGIE rights in the law in China, the Philippines and Thailand

Status	China	Philippines	Thailand
Criminalization of homosexuality or same-sex relations	No	No	No
Anti-discrimination laws or policies based on SOGIE grounds	No laws exist in mainland China that prohibit discrimination based on SOGIE. In Hong Kong and Macau Special Administrative Regions, discrimination based on sexual orientation is prohibited in some laws at certain levels ³⁷	No specific anti-discrimination laws at the national level, but local ordinances prohibiting discrimination based on SOGIE exist in 3 provinces, 12 cities, 1 municipality and 3 <i>barangays</i> , covering 11.4 percent of the population.	The Gender Equality Act B.E. 2558 (2015) prohibits unfair gender discrimination based on male or female gender, or “gender expressions not in accordance with birth sex.”

Sources: Aibai Culture and Education Center (2014). *A Review of Policies and Social Practices on the Human Rights of LGBTI People in the People’s Republic of China*; GALANG Philippines, Inc. (2013). *Policy Audit: Social Protection Policies and Urban Poor LBTs in the Philippines*, IDS Evidence Report No. 21; IGLHRC (2010). *The Legal Status and Position of Lesbian, Gay, Bisexual and Transgender People in the People’s Republic of China*; UNDP, USAID (2014). *Being LGBT in Asia: China Country Report; Philippine Country Report; Thailand Country Report*; ILO (2014). *Gender identity and sexual orientation in Thailand*.

Table 8: Legal protection for employment of LGBTI people in China, the Philippines and Thailand

Status	China	Philippines	Thailand
Laws and policies against employment discrimination	<ul style="list-style-type: none"> Labour Law of the People’s Republic of China (1994), Article 12 holds that “labourers shall not be discriminated against in employment due to their nationality, race, sex, or religious belief.” Employment Promotion Law of the People’s Republic of China (2015 Amendment), Article 3 states that labourers seeking employment shall not be subject to discrimination based on factors such as ethnicity, race, gender, religious belief, etc. 	<ul style="list-style-type: none"> The Labor Code of the Philippines (1974), which serves as an overarching framework for employment standards in the Philippines, does not include LGBTI people RA 9433 (The Magna Carta for Public Social Workers 2007) protects public social workers from discrimination on various grounds including “sex, sexual orientation, age, political or religious beliefs, civil status, physical characteristics/ disability, or ethnicity” (Sec. 17) 	<ul style="list-style-type: none"> Two committees established under the Gender Equality Act B.E. 2558 (2015), the Gender Equality Promotion Committee (Sor Tor Por) and the Committee on Consideration of Unfair Gender Discrimination (Wor Lor Por), have the respective powers and duties to promote gender equality and to decide on gender discrimination complaint cases

37 The Macau Labour Relations Law No. 7/2008, Art. 6.2 include sexual orientation as a protective category. In Hong Kong SAR, discrimination based on sexual orientation is prohibited in government employment and goods and services. Suen, Yiu-tung et al. (2016). *Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status*. Hong Kong: Equal Opportunities Commission. Available at: <http://www.legco.gov.hk/yr15-16/english/panels/ca/papers/ca20160215-rpt201601-e.pdf>

	<ul style="list-style-type: none"> • No national law that directly mentions protection of LGBTI people from employment discrimination 	<ul style="list-style-type: none"> • Contradictory rules and regulations concerning LGBTI people are present in RA 9262 (The Anti-Violence Against Women and Their Children Act of 2004), RA 8551 (Philippine National Police Reform and Reorganization Act of 1998) and the Code of Ethics of the Armed Forces of the Philippines (AFP) • Policies against employment discrimination towards LGBTI people exist in a few organizations in the private sector. • No national law that directly mentions protection of LGBTI people from employment discrimination 	<ul style="list-style-type: none"> • The Labour Protection Act B.E. 2541 (1998), No. 2 Amendment B.E. 2558 (2008), which covers workers in the private sector, prohibits sexual harassment against all workers including men. • The Civil Service Regulation on Sexual Harassment 2010 prohibits sexual harassment against civil servants or civil service employees without specifying the sex or gender of the victims • The Ministry of Labour Regulation on Thai Labour Standards, Social Responsibility of Thai Businesses B.E. 2547 (2007) prohibits discrimination against workers on the basis of sex as well as “personal sexual attitude”. • No national law that directly mentions protection of LGBTI people from employment discrimination
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3.4.1 China

National context

A country’s laws and policies must protect human rights of LGBTI people and recognize LGBTI people in order to address employment discrimination. In China, there is some recognition of gay men and same-sex behaviour. In 1997, the crime of “hooliganism”, which had been used to criminalize same-sex sexual behaviour, was removed from the Criminal

Law of the People’s Republic of China. In 2001, homosexuality was removed from the Chinese Classification and Diagnostic Criteria of Mental Disorders (CCMD).

Transgender people have issues being recognized at all, a necessary step before their rights to be free from discrimination in employment can be considered. There are also issues of access to and the quality of gender-affirming surgeries.^{38,39} In 2002 and 2008,

38 Aibai Culture and Education Center (2014). *A Review of Policies and Social Practices on the Human Rights of LGBTI People in the People’s Republic of China*, op. cit., p. 11.

39 UNDP, APTN (2017) *Legal Gender Recognition in China: A Legal and Policy Review*.

through official replies from the Ministry of Public Security, people who have completed gender-affirming surgeries were permitted to change their sex on their legal identity documents, such as household registration (*hokuo*), legal identity cards (*shenfenzheng*) and passports.⁴⁰ However, there are many restrictive conditions for obtaining a legal gender change, primarily that one must undergo gender-affirming surgeries. In order to undergo gender-affirming surgeries, a series of restrictive conditions must be met. In 2009, the Ministry of Health issued the first Regulation Governing the Technologies for Sex Change Surgeries, which requires transgender people to be diagnosed with a mental illness and undergo mental health treatments before obtaining gender-affirming surgeries, family consent regardless of the age of the transgender individual, removal of existing genitalia,⁴¹ and other requirements such as that the transgender individual must be at least 20 years of age and unmarried, and have no criminal record.

Gaps remain in the legal protection of LGBTI people in China. The crime of rape is still defined as a crime against women exclusively (though it is unclear if this would include transgender women). “Transgenderism” is still listed as a mental disorder in the CCMD. Intersex people are left out entirely from all laws and policies and are commonly subjected to nonconsensual genital surgeries as infants.⁴²

Authorities have in recent years stepped up their control of human rights and civil society

activism and media content. Many popular online drama series with gay and transgender themes, with millions of viewers, were removed in early 2016. According to the State Administration of Press, Publication, Radio, Film and Television (SAPPRF), such dramas contravene its guidelines which prohibit “abnormal sexual relationships and behaviors, such as incest, same-sex relationships, sexual perversion, sexual assault, sexual abuse, sexual violence, and so on.”⁴³ Censorship of homosexual content in film and television prevents broader public discourse on sexual minorities and diverse SOGIESC.⁴⁴

In April 2018, Sina Weibo, often known as the Chinese Twitter, reversed a week-long censorship on the ban of LGBT content after a backlash from Chinese LGBT social media users and allies. This victory was reported on around the world.⁴⁵

National discussions and dialogues about LGBTI issues in general have been limited. In terms of national policy, addressing LGBTI issues has been limited to public health matters such as HIV prevention wherein the public health sector recognizes men who have sex with men (MSM) based on their sexual behaviour, rather than sexual orientation.

Funds allocated to community-based organizations for the HIV response have helped mobilize community participation, discussion and advocacy on issues related to people living with HIV, including discrimination in employment. While the focus on men who have sex with men

40 Ibid.; UNDP, USAID (2014). *Being LGBT in Asia: China country report, op. cit.*; and SRI - *Sexual Rights Initiative (2013). Stakeholder Submission on Lesbian, Gay, Bisexual and Transgender (LGBT) Rights in China For the 17th Session of the Universal Periodic Review*. October. Available at: <http://sexualrightsinitiative.com/wp-content/uploads/UPR-Report-on-LGBT-Rights-in-China-Final-Version.doc> (accessed 15 May 2016).

41 Aibai Culture and Education Center (2014). *op. cit.*, p. 11.

42 IGLHRC (2010). *The Legal Status and Position of Lesbian, Gay, Bisexual and Transgender People in the People's Republic of China*. Available at: <http://iglhrc.org/sites/default/files/395-1.pdf> (accessed 15 May 2016); Aibai Culture and Education Center (2014). *op. cit.*

43 Fergus Ryan (2016). *China tightens censorship of online dramas*. China Film Insider. 27 February. <http://chinafilminsider.com/china-tightens-censorship-of-online-dramas/> (accessed 20 May 2016); and Hannah Ellis-Peterson (2016). *China bans depictions of gay people on television*. The Guardian. 4 March, <https://www.theguardian.com/tv-and-radio/2016/mar/04/china-bans-gay-people-television-clampdown-xi-jinping-censorship> (accessed 15 May 2016).

44 UNDP, USAID (2014). *Being LGBT in Asia: China country report, op. cit.*

45 CNN (2018). *Rare win for China's LGBT community after censorship U-turn by Sina Weibo*. Available at: <https://edition.cnn.com/2018/04/16/asia/china-sina-weibo-lgbt-censorship-intl/index.html>

in HIV prevention has overshadowed other sexual minority groups like lesbian, bisexual, transgender and intersex people, it has created some space for discussion and community mobilization.⁴⁶ To date, only a few state agencies have been involved in work to support LGBTI communities, including the research departments of the Supreme People's Court and some governmental agencies from the National Health and Family Planning Commission at the provincial level.

National context for LGBTI employment rights

China's Labour Law and Labour Contract Law provide protection for the right to work for women, people with disabilities and ethnic minorities, and prohibit employment discrimination based on ethnicity, race, sex and religion. The rights of LGBTI people are not mentioned.⁴⁷ Government ministries are reluctant to introduce new legislation or amend existing anti-discrimination laws, and most lawmakers and state officials consider existing provisions already sufficient.⁴⁸

Recent years have seen two successful legal challenges relating to the human rights of LGBTI people. In late 2014, a local court in Henan province ordered a hospital to pay compensation to a man for forced "gay conversion therapy" after his wife's family forcibly committed him for mental health treatment at the hospital for being gay.⁴⁹ And in 2015, a college student sued the Ministry of Education for its portrayal

of homosexuality as a "disorder" in textbooks and suggesting shock therapy as a "cure." In response, the Ministry agreed to meet with the student and her lawyer for discussions in November 2015.⁵⁰

Despite the challenges that remain in the area of employment discrimination, there have been a few successful cases in recent years. The first-ever labour discrimination lawsuit related to sexual orientation involved a gay man in 2015 and the first gender identity-related labour dispute involving a trans man in 2016. In February 2018, it was reported that on the trans man's second appeal of the district court's decision, the Guiyang Intermediate People's Court made a statement that: "An individual's gender identity and gender expression falls within the protection of general personality rights, [everyone] should respect others' rights to gender identity and expression." It also said that systemic obstacles and discrimination that prevent equal employment for all should be abolished, and that employers practising gender-based discrimination should bear legal responsibility. It was reported as the first time that a court in China has made the recommendation that workers should not experience differential treatment based on their gender identity and expression.⁵¹

46 Ibid.

47 Aibai Culture and Education Center (2014). A Review of Policies and Social Practices on the Human Rights of LGBTI People in the People's Republic of China, op cit.; UNDP (2018). Legal Gender Recognition in China: A Legal and Policy Review.

48 View expressed by legal experts and government representative at the national discussion in Beijing on 26 January 2016.

49 Hannah Beech (2016). The man was sanctioned in China for being gay. Now he's fighting back. Time. 14 June. Available at: <http://time.com/4367925/china-lgbt-gay-conversion-therapy-rights/?xid=homepage> (accessed 14 June 2016).

50 Emily Rauhala (2015). Student wins key victory in legal fight against China's anti-gay bias. The Independent. 8 December. <http://www.independent.co.uk/news/world/asia/student-wins-key-victory-in-legal-fight-against-china-s-anti-gay-bias-a6763916.html> (accessed 15 May 2018).

51 Hong Kong Free Press (2018). Chinese court says employers should not treat workers differently based on gender identity. Available at: <https://www.hongkongfp.com/2018/02/08/chinese-court-says-employers-not-treat-workers-differently-based-gender-identity/> (accessed 12 Feb 2018).

3.4.2 Philippines

National context

Same-sex activity between consenting adults (18 years or older) is not criminalized in the Philippines. Sexual orientation is mentioned in various laws and some protection is provided on that ground. The Supreme Court has invalidated government regulations that infringed on the sexual relations of consenting adults, regardless of their SOGIE. Another positive policy change was that the Psychological Association of the Philippines removed the stigma of mental illness that has long been associated with diverse sexualities in 2011 and its Code of Ethics of 2010 calls for respect for diversity.⁵²

The Philippines lacks a specific law or policy for providing legal gender recognition for transgender or intersex people, and the record of actually doing so is mixed and indicates a perception of gender as a binary construct based on sex assigned at birth that cannot be altered.⁵³ The Clerical Error Law of 2001 (RA 9048) makes it effectively illegal for transgender persons in the Philippines to change their first name and sex in their birth certificate.⁵⁴ However, prior to 2007, some transgender women reported being able to amend the gender marker on their birth certificates. In 2007, the Supreme Court ruled against a transgender woman who had undergone gender-affirming

surgeries and had filed a petition to change her gender marker from male to female.⁵⁵ On the other hand, the Cagandahan ruling in 2008⁵⁶ allowed an intersex person to change his gender marker from female to male.

In addition, some laws such as Article 202 concerning vagrancy in the Revised Penal Code (RPC) and the Anti-Trafficking in Persons Act (RA 9208), 2003, have reportedly been used by authorities to harass, arrest and extort LGBT people.⁵⁷

Currently, there are no specific services provided by the government that address SOGIESC-specific needs of LGBTI people. In contrast to research findings, many government officials believe that LGBTI people can avail themselves of all general programmes and that no one is discriminated against in service provision. But, this assertion is contradicted by research findings.⁵⁸

National context for LGBTI employment rights

The largest issue for LGBTI people in the Philippines remains the lack of an anti-discrimination law at the national level, which can be used to protect LGBTI employment rights. The Labor Code of the Philippines (1974), which serves as an overarching framework providing standards on the rights of workers in the country, is silent about SOGIESC.⁵⁹ Since the late 1990s,

52 UNDP, USAID (2014). *Being LGBT in Asia: Philippines country report*. Bangkok. Available at: <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/being-lgbt-in-asia--the-philippine-country-report.html>

53 UNDP (2018). *Legal Gender Recognition in the Philippines: A Legal and Policy Review*.

54 RA 9048 specifically states that “no correction must involve the change of nationality, age, status or sex of the petitioner.” Republic Act 9048 (An Act Authorizing the City or Municipal Civil Registrar or The Consul General to Correct a Clerical or Typographical Error in an Entry and/or Change of First Name or Nickname in the Civil Register Without Need of a Judicial Order), http://www.lawphil.net/statutes/repacts/ra2001/ra_9048_2001.html, cited in UNDP, USAID (2014). *Being LGBT in Asia: Philippines country report*. Footnote 13, p. 23.

55 Citing the lack of legal recognition of sex reassignment under the Philippine law, the Supreme Court verdict read: “the determination of a person’s sex made at the time of his or her birth, if not attended by error, is immutable.” *Rommel Jacinto Dantes Silverio versus Republic of the Philippines* (G.R. No. 174689, October 22, 2007), <http://sc.judiciary.gov.ph/jurisprudence/2007/october2007/174689.htm>, cited in *ibid.*, footnote 14, p. 23.

56 *Republic of the Philippines versus Jennifer Cagandahan* (G.R. No. 166676, September 12, 2008).

57 *Ibid.*; IGLHRC (2014). *Violence: Through the lens of lesbians, bisexual women and trans people in Asia – Philippines*, *op. cit.*

58 *Ibid.*

59 GALANG Philippines, Inc. (2015). *How Filipino LBTs cope with economic disadvantage*, IDS evidence report no. 120: Sexuality, Poverty and Law. Available at: https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/5873/ER120_HowFilipinoLBTsCopewithEconomicDisadvantage.pdf;jsessionid=1C5C8F0C5795857877148FAFA13CE28E?sequence=1

LGBTI rights advocates have lobbied for the passage of anti-discrimination bills covering not only discrimination in the workplace, but also in education, access to goods and services, accommodation, and the military. However, the bills have faced strong opposition from religious groups as well as from lawmakers.⁶⁰ The country's first Comprehensive Anti-discrimination Bill, inclusive of SOGIE, was filed in August 2016 in the 17th Congress,⁶¹ backed by a coalition of stakeholders. In September 2017, the House in the Philippines approved the SOGIE Equality Act with congress voting unanimously, 198-0-0, on its third and final hearing. However, at the time of writing, it is not clear whether the Senate will pass the Act.⁶²

In the absence of national anti-discrimination legislation, local ordinances have been passed during the past 15 years that prohibit discrimination based on sexual orientation and/or gender identity and expression, often along with a number of other grounds, such as disability, age, race, ethnicity, religion and health status. In 2003, Quezon City was the first local government unit to pass an anti-discrimination ordinance banning employment-related discrimination (Quezon City Ordinance No. SP-1309 (series of 2003)). This 2003 ordinance was later expanded in 2014 to also cover affirmative acts encouraging existing barangay (village or district)

help desks addressing violence against women and children to also address and document cases of gender-based violence against LGBT people (Quezon City Ordinance No. SP-2357 (series of 2014), better known as the Gender-Fair Ordinance).⁶³ As of February 2018, 5 provinces, 15 cities, 1 municipality and 3 *barangays* have passed anti-discrimination ordinances that include SOGIE as protected grounds, covering just over one-tenth of the population.⁶⁴

A number of laws mention sexual orientation or address same-sex relations. The Magna Carta of Women (RA 9710), enacted in 2009, reiterates the Universal Declaration of Human Rights and states that no one shall suffer discrimination on the basis of gender and sexual orientation, among many other grounds (Sec. 6, para. 4).⁶⁵ The Magna Carta for Public Social Workers (RA 9433), 2007, states that public social workers shall be protected "from discrimination by reason of sex, sexual orientation, age, political or religious beliefs, civil status, physical characteristics/ disability, or ethnicity" (Sec. 17).⁶⁶ The Anti-Violence Against Women and Their Children Act of 2004 (RA 9262) punishes violence in intimate relations including those where both parties are women. However, RA 9262 also refers to LGBT people as "socially bad or psychologically detrimental", similar to alcoholism and drug addiction.⁶⁷

60 Ibid. and UNDP, USAID (2014). Being LGBT in Asia: Philippines country report, op. cit.

61 Available at: https://www.senate.gov.ph/lis/bill_res.aspx?congress=17&q=SBN-948 (accessed 16 December 2016).

62 CNN (2017). House approves anti-discrimination bill on 3rd and final reading. Available at: <http://cnnphilippines.com/news/2017/09/20/House-approves-anti-discrimination-bill-3rd-and-final-reading.html>

63 The ordinance is, however, not intersex-exclusive and refers exclusively to SOGIE and LGBT people. UNDP, USAID (2014). Being LGBT in Asia: Philippines country report, op. cit.

64 As of February 2018, the five provinces are Agusan del Norte, Batangas, Cavite, Iloilo and Dinagat Islands. The 15 cities are Angeles City (Pampanga), Antipolo (Rizal), Bacolod (Negros Occidental), Baguio (Benguet), Batangas (Batangas), Butuan (Agusan del Norte), Candon (Ilocos Sur), Cebu (Cebu), Dagupan (Pangasinan), Davao (Davao del Sur), General Santos (Sarangani), Mandaue (Cebu), Puerto Princesa (Palawan), Quezon (Metro Manila) and Vigan (Ilocos Sur). The only municipality is San Julian (Easter Samar), and all three barangays are in Quezon City: Bagbag, Greater Largo and Pansol. E.J. Manalastas, Anti-discrimination ordinances. Department of Psychology. University of the Philippines Diliman. <http://pages.upd.edu.ph/ejmanalastas/policies-ordinances> (accessed 20 October 2016).

65 Republic Act 9710 (Magna Carta of Women). Available at: <http://www.csc.gov.ph/2014-02-21-08-16-56/2014-02-21-08-19-19/magna-carta-of-women-r-a-9710> (accessed 19 August 2016).

66 Republic Act 9433 (Magna Carta for Public Social Workers). Available at: <http://www.ncda.gov.ph/disability-laws/republic-acts/republic-act-9433/> (accessed 19 August 2016).

67 Rainbow Rights Project Inc. & Philippine LGBT Hate Crime Watch (2011). The Status of LGBT Rights in the Philippines, submission to the Human Rights Council for Universal Periodic Review 13th Session, Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/session13/PH/JS1_UPR_PHL_S13_2012_JointSubmission1_E.pdf, cited in UNDP, USAID (2014). Being LGBT in Asia: Philippines country report, op. cit., p. 22.

In relation to public services, contradictory rules and regulations remain concerning SOGIE. For example, Section 59 of RA 8551 (Philippine National Police Reform and Reorganization Act of 1998) requires the National Police Commission (NAPOLCOM) to formulate a gender sensitivity programme, prevent sexual harassment in the workplace, and prohibit discrimination on the basis of gender or sexual orientation. Yet, the NAPOLCOM Memorandum Circular No. 2005-002 allows a police officer to be discharged for “sexual perversion,” including “latent and overt homosexuality” and places homosexuality under “neurological and psychiatric disorders” that make a person unsuitable for service. Likewise, the Code of Ethics of the Armed Forces of the Philippines (AFP), which announced a zero tolerance for discrimination policy in 2009,⁶⁸ has provisions that allow discrimination against lesbian and gay members of the military. In the civil service, the Civil Service Commission’s (CSC) Office Memorandum 2009–2010 prohibits discrimination against LGBTI people applying for civil service examinations, but it is not widely known.⁶⁹

According to LGBTI organizations in the Philippines, in the absence of a national anti-discrimination law that includes SOGIE, government agencies typically point to the lack of national legal and policy structures to support reforms towards gender-inclusive policies and practices in government workplaces as an excuse for inaction.⁷⁰

There has been progress in social dialogue and action taken by some stakeholders from

the public and private sector and civil society towards improving the situation of LGBTI people in employment. While initiatives such as studies on LGBTI economic conditions and challenges and a new organization of entrepreneurs with LGBTI interests are still on a small scale, they are steps in the right direction. Awareness about discrimination in the workplace and SOGIE rights is still lacking in most employment sectors and among human resources practitioners in the country. While some employers in the private sector, particularly multinational companies, have begun to implement LGBTI-inclusive workplace policies and practices governed by their global policies, most domestic companies and government offices remain unaware of such policies.⁷¹

3.4.3 Thailand

National context

Although gaps still remain in legal protection for LGBTI people, Thailand has seen legislative progress in recent years. Homosexuality is not criminalized in Thai law and is no longer considered a mental illness by the Ministry of Public Health. Yet “transgenderism” remains listed on the official list of mental disorders. Thailand currently has no law enabling transgender people to change their name title, sex or gender marker on official documentation. Some intersex persons can apply for a legal gender change, but these provisions are only available to a minority of intersex individuals who are “diagnosed”⁷² as intersex at birth based on

68 IGLHRC (2009). The Philippines: Acceptance of Gays in the Military does not Mean Equality (Yet)

69 UNDP, USAID (2014). Being LGBT in Asia: Philippines country report, op. cit.

70 Rainbow Rights Project, Inc. (2015). Diversity in the Workplace: A Handbook on Building LGBTI-Inclusive Workplaces in the Philippines.

71 Ibid.

72 Many intersex activists reject medicalized language to describe intersex bodies. The pathologizing of intersex bodies has commonly been used to justify “normalizing” treatments to force intersex people’s bodies to conform to dominant notions of what male and female bodies look like. These treatments commonly occur without informed consent and may have long-term ramifications on the mental, physical, emotional and sexual health of an intersex person. As a result, this report has chosen not to perpetuate inaccurate pathologizing terms for intersex people’s naturally occurring biological variations. When such terms are used, they are a direct quotation from a referenced text; Astraea Lesbian Foundation for Justice (2016) *We are Real: The Growing Movement Advancing the Human Rights of Intersex People*. New York: Astraea Lesbian Foundation for Justice.

“ambiguous genitalia” and who undergo so-called “sex-normalizing” surgeries so that their genitals conform to dominant ideas of a male or a female body.⁷³

In a six-year-long legal challenge by a transgender woman against the use of the discriminatory wording, “permanent mental disorder”, as the reason for exempting transgender women from military service, the Ministry of Defence was ordered by Thailand’s Central Administrative Court in September 2011 to stop labelling transgender women with wording it described as “inaccurate” and “unlawful.”⁷⁴ The Ministry of Defence has replaced the wording with “gender not in accordance with birth sex” (often translated as “gender identity disorder” in English) on the military service exemption document known as Sor Dor 43. The old discriminatory labeling on Sor Dor 43 was a significant obstacle for transgender women in seeking formal employment and conducting legal transactions, among other difficulties.⁷⁵ While transgender women exempted from military service after 2011 were no longer issued an exemption document with the old discriminatory label, the wording replacement is not automatically retroactive. Those already issued the document before 2012 still need to individually request an amended document from the Military Recruitment Department. Limited proactive steps have been made by the Military Recruitment Department to update these documents. This means that a large number of transgender women with the old exemption document are still in the same position of vulnerability and stigma as before.⁷⁶

The Regulation of National Social Welfare Promotion Commission (NSWPC), issued in November 2012 under the 2007 amendment of the Social Welfare Promotion Act B.E. 2546 (2003), was the first official recognition of LGBTI people as a minority population group in Thailand. The Regulation identifies LGBTI people as “persons of diverse sexualities” among 13 population groups deemed requiring support from state agencies to access social services, including opportunity in education and employment. It provides a clear definition for each of the lesbian, gay, bisexual, transgender and intersex subgroups.⁷⁷

National context for LGBTI employment rights

The Gender Equality Act B.E. 2558 (2015) marks an important milestone in that it is the first major anti-discrimination law in Thailand that explicitly includes gender expression as a prohibited ground. Specifically, the Act prohibits any “unfair gender discrimination” on the basis that a person is male or female or has a “gender expression different from birth sex” (Sec. 3, para. 1). The enactment of this law followed a gradual development towards recognizing the rights of LGBTI people in Thailand over the past 15 years.

The Gender Equality Act provides the first legal instrument to address gender discrimination inclusive of LGBTI people, although technically, the specified ground of “gender expression” still leaves room for legal interpretation whether it actually covers sexual orientation, gender identity or expression, or sex characteristics.⁷⁸ The non-discrimination protection provided in the Act is also somewhat weakened by legal

73 UNDP (2018). Legal Gender Recognition in Thailand: A Legal and Policy Review.

74 For example, see Monica Roberts (2012). Thai Army Ordered by Court to Halt Problematic Trans Classification. Available from: http://transadvocate.com/thai-army-ordered-by-court-to-halt-problematic-trans-classification_n_4460.htm. Accessed 24 May 2018.

75 ILO (2014). Gender identity and sexual orientation in Thailand. Bangkok; UNDP, USAID (2014). Being LGBT in Asia: Thailand country report, op. cit., pp. 24–25.

76 UNDP. Legal and Policy Review on Legal Gender Recognition in Asia Pacific in the Context of Human Rights, Thailand Country Report (forthcoming).

77 ILO (2014). Gender identity and sexual orientation in Thailand, op. cit.

78 Although the provision (Section 3) only explicitly mentions “gender expression”, it is understood to be inclusive of LGBTI people because ‘sexual orientation’ and ‘gender identity’ are considered forms of gender expression in the Thai context.

exemptions: discrimination is legal if done “in order to provide welfare and safety protection in accordance with religious principles or for national security reasons” (Sec. 17).⁷⁹

Two committees established under the Gender Equality Act, the Gender Equality Promotion Committee (Sor Tor Por) and the Committee on Consideration of Unfair Gender Discrimination (Wor Lor Por), have the respective powers and duties to promote gender equality and to decide on gender discrimination complaint cases. Wor Lor Por comprises 8 to 10 members, including an employment expert.

No employment-related law in Thailand directly mentions sexual orientation, gender identity or expression, or sex characteristics. However, recent legal amendments and official regulations concerning sexual harassment in the workplace implicitly also cover men who were previously omitted as victims. The Labour Protection Act B.E. 2541 (1998), No. 2 Amendment B.E. 2558 (2008), which covers workers in the private sector, prohibits sexual harassment against all workers including men. Likewise, the Civil Service Regulation on Sexual Harassment dated 29 September 2010 prohibits sexual harassment against civil servants or civil service employees without specifying the sex or gender of the victims. The Ministry of Labour Regulation on Thai Labour Standards, Social Responsibility of Thai Businesses B.E. 2547 (2007) prohibits discrimination against workers on the basis of

sex as well as “personal sexual attitude”. It is unclear if this Regulation has ever been applied in practice.^{80,81}

3.5 The role of the private sector

Global business leaders recognize the significance of the so-called “pink market” and the inclusion of LGBTI people in the workforce. LGBT Capital, a US-based specialist corporate advisory and asset management business serving the LGBT consumer sector, estimates the LGBT population at 450 million globally and the annual value of the global LGBT consumer market at US\$3.7 trillion.⁸²

Many multinational corporations have adopted measures to recruit and retain LGBT talent to support this growing market segment. Over 90 percent of Fortune 500 companies in the United States now prohibit discrimination based on sexual orientation while 75 per cent have non-discrimination policies relating to gender identity.⁸³

Business networks such as Out Leadership connect corporate leaders in global discussions on innovations in LGBT inclusion in business. Such networks are expanding with more initiatives. For example, since 2011, Out Leadership has held global summits and seminars in Hong Kong, London, New York,

At the time of its enactment, the Thai government presented the Gender Equality Act as inclusive of LGBTI people. The Thai word ‘phet’ used in the provision has nuanced and expansive meanings of ‘sex’ and ‘gender’ combined. According to P.A. Jackson, phet refers to both biological sex, i.e. male or female, or the social concept of gender in everyday discourse. The latter meaning is defined through fixed combinations of biological sex, gender identity, gender expression and sexuality. P.A. Jackson (2003). *Performative genders, perverse desires: A bio-history of Thailand’s same sex and transgender cultures*. In *Intersections: Gender, History and Culture in the Asian Context*, p. 9, cited in Timo T. Ojanen, Rattanakorn Ratanashevorn and Sumonthip Boonkerd (2016). *Gaps in responses to LGBT issues in Thailand: Mental health research, services and policies*, *Psychology of Sexualities Review*. Vol. 7. No. 1, p. 42.

79 UNDP, USAID (2014). *Being LGBT in Asia: Thailand country report*, op. cit.; ILO (2014). *Gender identity and sexual orientation in Thailand*, op. cit.; and Timo T. Ojanen, Rattanakorn Ratanashevorn and Sumonthip Boonkerd (2016). ‘Gaps in responses to LGBT issues in Thailand: Mental health research, services and policies,’ op. cit.

80 ILO (2014). *Gender identity and sexual orientation in Thailand*, op. cit.

81 UNDP (2018). *Legal Gender Recognition in Thailand: A Legal and Policy Review*.

82 The LGBTI population is generally estimated to be between 5 percent and 10 percent of the total population. LGBT Capital, op. cit.

83 Human Rights Campaign Foundation (2015). *Corporate Equality Index 2016: Rating American workplaces on lesbian, gay, bisexual and transgender equality*. Washington, DC, p. 6.

São Paulo and Sydney. Out on the Street, an initiative by Out Leadership, connects senior LGBT executives and allies from major financial services firms, including Bloomberg, Barclays, Citi, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, KPMG, McKinsey & Company, Nomura, Thompson Reuters and many others, “to create business opportunity, cultivate talent, and drive LGBT equality forward.”⁸⁴

Participants in the global discussion “Pride and Prejudice” held on 3 March 2016 recognized that many Asian societies view the LGBT community as being against traditional values such as filial piety and, in some countries, against religion. One key message from this global event was that the family-centered and hierarchical Asian culture makes it crucial that leaders in companies or in government set the right tone. Leading by example is also helpful, i.e. when a top leader happens to be a member of the LGBT community and is prepared to be out, such as in the case of Apple’s Tim Cook, it contributes to steering the discussion and pushing LGBT issues forward. The forum noted that the challenge for corporate Asia is in getting local companies to step up and take their necessary leadership role in the public sphere.⁸⁵

3.6 Examples of positive initiatives

Positive initiatives have been carried out by LGBTI and non-profit organizations in research

countries, often with other stakeholders in relevant sectors, in advancing knowledge and LGBTI interests, as well as fostering cross-sectoral dialogue and cooperation in different areas. The initiatives are relatively small and results are mixed or it is still too early for impact to be measured. Stakeholders from the private and public sectors are just beginning to join some initiatives in some countries.

Research: In China and the Philippines, LGBTI organizations take an active role in building a body of knowledge of the employment situation of LGBTI people. The Aibai Cultural and Education Center in China has conducted several studies on LGBTI people in education and in the workplace as well as legal and policy reviews concerning LGBTI rights.⁸⁶ In the Philippines, some LGBTI organizations have conducted studies on LGBTI employment. GALANG Philippines documented the experiences of low-income LBT people coping with economic disadvantages in poor slum communities in Quezon City while Rainbow Rights Project, Inc. focused on LGBTI employment in the formal sector and produced a handbook on building LGBTI-inclusive workplaces in the Philippines.⁸⁷ In Thailand, apart from research funded by UN agencies, studies on SOGIESC-related topics have largely been conducted through collaboration among leading advocates, academic institutions and LGBTI or civil society organizations, largely focusing on legal reviews, especially concerning legal gender recognition for transgender people and same-sex partnerships.⁸⁸

84 Out Leadership. <http://outleadership.com/about/>.

85 The Economist Events (2016). Executive summary: Pride and Prejudice – The business and economic case of LGBT diversity and inclusion, op. cit.

86 Aibai Culture and Education Center. Report of the Online Survey on Homophobic and Trans-phobic Bully at Educational Institutions (2012), *Online Survey Report on the Work Environment for China’s LGBT Community* (2013), *A Review of Policies and Social Practices on the Human Rights of LGBTI People in the People’s Republic of China* (2014).

87 GALANG Philippines, Inc. *Policy Audit: Social Protection Policies and Urban Poor LBTs in the Philippines*, *IDS Evidence Report No. 21* (2013), *How Filipino LBTs Cope with Economic Disadvantage*, *IDS Evidence Report No. 120: Sexuality, Poverty and Law Sexuality, Poverty and Law* (2015), op. cit.; Rainbow Rights Project, Inc. (2015). *Diversity in the Workplace: A Handbook on Building LGBTI-Inclusive Workplaces in the Philippines*, op. cit.; IGLHRC. (2014). *Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia – Philippines*, op. cit.

88 Chanjira Boonprasert, ed. (2011). *Violated lives: Narratives from LGBTIQs and international human rights law*. Bangkok: Teeranat Kanjanauksorn Foundation; Rainbow Sky Association of Thailand; Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM); Ronnapoom Samakkeekarom and Atcharaporn Thongchalaem (2015). *On needs, problems and obstacles for transgender persons concerning legal recognition of status and title*; Ronnapoom Samakkeekarom and Jetsada Taesombat (2013). *Meaning, Needs and Experience of Acceptance by Families of LGBT Partnership*; Somchai Preechasilpakul (2015). *Sexual Diversities in the Legal System*

Policy advocacy: At the policy level, LGBTI organizations in the Philippines have collaborated with the Commission on Human Rights (CHR) and its counterpart under the Office of the President, the Presidential Human Rights Committee (PHRC), to mainstream human rights for LGBTI people within the broader human rights agenda. In 2012, the Philippine Supreme Court launched a pilot programme to train trial judges on SOGIE.⁸⁹ The CHR also adopted Gender Ombud Guidelines in 2015 and has provided training to lawyers on how to handle persons with diverse SOGIE in an investigation protocol. However, the CHR has limitations in that it cannot impose sanctions and can only make recommendations for redressing human rights violations. Meanwhile, GALANG Philippines has been bridging the services of the Quezon City Public Employment Service Office (PESO) to its partner organizations in Quezon City. However, without any explicit provisions encouraging employers to hire applicants of diverse SOGIE, this has not produced many positive results. Lesbian, bisexual and transgender job seekers continue to be refused employment, often at the personal interview stage, due to their actual or perceived SOGIE.⁹⁰

Working with the private sector: Non-profit organizations in China have worked on promoting LGBT inclusion in the private sector. WorkForLGBT and Shanghai LGBT Professionals, established in 2013, created a non-profit platform for dialogue and partnership with companies in China on LGBT corporate equality issues. It organized China's first LGBT job fair in April 2015 at the second annual LGBT Corporate Diversity & Inclusion Conference in Shanghai,

attracting 17 Fortune 500 companies, 200 HR leaders and 400 LGBT job seekers. The 17 international exhibitors included Google, Starbucks, Ford, IBM, Microsoft, Opera Software, McKinsey, Electronic Arts (EA), and L'Oreal among others.⁹¹

The second LGBT job fair in May 2016 enjoyed even more success with double the number of exhibitors and LGBT job seekers from the previous year, and participation from Chinese companies, including Didi Chuxing Taxi App, BlueFocus Communication Group, and BOSS recruiting. The remaining exhibitors were new multinational companies, such as PwC, PayPal, BP, Hyatt Hotels, Morgan Stanley, Shell, 3M, Citigroup, eBay, Boston Consulting Group and Omnicor. According to the organizer, all 34 companies registered in the 2016 LGBT job fair pledged their support for inclusive policies for LGBT employees, including prohibiting LGBT workplace discrimination.⁹²

Another initiative involves a collaboration between the Asian workplace diversity non-profit organization Community Business and a number of organizations promoting LGBT rights in China to create an LGBT Resource Guide for Employers to help businesses in China to better understand the needs of their LGBT employees and to encourage them to review workplace policies and practices to drive positive change. Organizations collaborating in this effort include Aibai Culture and Education Center, the Beijing Gender Health Education Institute, the Beijing LGBT Center, the British Council, Common Language, the Health Governance Initiative, Shanghai NvAi, PFLAG China⁹³ and UNAIDS⁹⁴.

89 IGLHRC (2014). *Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia – Philippines*, op. cit.

90 GALANG Philippines, Inc. (2015). *How Filipino LBTs Cope with Economic Disadvantage*, op. cit.

91 David Hudson (2015). Google, IBM, Ford and McKinsey attend China's first job fair aimed at gay community. *Gay Star Business*. 27 April. <http://www.gaystarnews.com/article/google-ibm-ford-and-mckinsey-attend-china's-first-job-fair-aimed-gay-community270415/#gs.null> (accessed 16 June 2016); GB Times (2015). Chinese firms stay away from first LGBT job fair. 25 May. <http://gbtimes.com/china/chinese-firms-stay-away-first-lgbt-job-fair> (accessed 16 June 2016).

92 China Retail News (2016). China Holds 2nd Gay Job Fair & 3rd Annual LGBT Diversity Conference. 2 June. <http://www.chinaretailnews.com/2016/06/02/8467-china-holds-2nd-gay-job-fair-3rd-annual-lgbt-diversity-conference/> (accessed 16 June 2016).

93 The name of the international organization, PFLAG, used to stand for 'parents, families and friends of lesbians and gays' but officially became known just as PFLAG in 2014.

94 Andrew Potts (2013). LGBT workplace inclusion guide for China launched. *Gay Star News*. 26 September. <http://www.gaystarnews.com/article/lgbt-workplace-inclusion-guide-china-launched260913/#gs.6umFygk> (accessed 15 May 2016).

In the Philippines, there is generally a lower level of support for LGBTI employees to organize themselves in domestic companies than in their multinational counterparts.⁹⁵ The first LGBT organization aiming to energize domestic enterprises has been established: the Philippine LGBT Chamber of Commerce, a membership-based “industry organization of, by and for the LGBT in the Philippines”.⁹⁶ Among the key strategies of the Philippine LGBT Chamber of Commerce is the promotion of new businesses among local LGBT communities and empowerment through entrepreneurship and business leadership development.

“The LGBT history in the Philippines is one of the most dynamic and vibrant sources of creativity, innovation and courage. We believe that these forces drive business excellence, pride, diversity and development domestically and globally through our network of peers, collaborators, friends, and allies. The Philippine LGBT Chamber of Commerce was created to tap this dynamism to develop more LGBT leaders across the industries and sectors in the Philippines, from agriculture to technology and beyond design, media and the arts.”

- Brian Tenorio,
Chair and Founder,
The Philippine LGBT Chamber of Commerce⁹⁷

In Thailand, there has been some action from within the private sector, multinational or local companies. However, a small initiative was

started in 2016 by a group called “HR Variety” aimed to raise awareness about LGBTI issues among human resources personnel in Thai companies, including information about the 2015 Gender Equality Act and how to prevent employment discrimination in the recruitment process.⁹⁸

The first Workplace PRIDE Business Conference in Bangkok on 28 November 2016, part of the ILGA World Conference held annually, was the first event of its kind in Thailand. Focusing on Southeast Asian countries and Hong Kong, the Workplace PRIDE Business Conference explored how work and workplaces are vital components of LGBTI inclusion and how LGBTI communities can build alliances with businesses and companies. This conference was jointly organized by the Netherlands-based Workplace PRIDE, ILGA World and Out Bangkok (together with Rainbow Sky Association of Thailand (RSAT) and Purple Sky Network), with sponsorship from IBM, Clifford Chance and the Ministry of Foreign Affairs of the Netherlands. The preliminary findings from this study were presented at this conference.⁹⁹

Support for LGBTI workers in collective bargaining and seeking redress: A Philippines trade union Public Services Labor Independent Confederation (PSLINK), which has over 137,000 members, provides training to union leaders on negotiating and supporting building collective bargaining for LGBTI workers. Its members participate in gender diversity activities such as PRIDE marches, LGBT history month and the International Day Against Homophobia, Transphobia and Biphobia (IDAHO). IGLHRC (now OutRight Action International) in

95 Rainbow Rights Project, Inc. (2015). *Diversity In the Workplace: A Handbook on Building LGBTI-Inclusive Workplaces in the Philippines*, op. cit.

96 The Philippine LGBT Chamber of Commerce website: <http://www.lgbtph.org>

97 Ibid.

98 UNDP (2016). Experts urge action on LGBTI workplace discrimination in Thailand. 4 February. Available at: <http://www.th.undp.org/content/thailand/en/home/presscenter/articles/2016/02/04/experts-urge-action-on-lgbti-workplace-discrimination-in-thailand.html>.

99 See a report on the conference: <https://medium.com/being-lgbti-in-asia/preliminary-findings-of-study-on-employment-discrimination-of-lgbti-people-shared-at-ilga-world-8dbd3e322da0#.djsatth7h>, and the Bangkok: 2016 Workplace PRIDE Business Conference website: <http://bangkok2016.workplacepride.org/about/>.

partnership with the Philippine National Police Human Rights Affairs Office (PNP-HRAO) has also provided training for police officers on gender and sexuality. In addition, GALANG Philippines has explored micro-enterprise development for economically marginalized sexual minorities to fight poverty.

In Thailand, Togetherness for Equality and Action (TEA-Law) provides legal assistance to the LGBTI community in filing employment discrimination complaints to the National Human Rights Commission (NHRC), and a new collaboration between RSAT and the Ministry of Social Development and Human Security (MSDHS) to develop a new referral system for filing employment discrimination complaints to the new gender discrimination review commission Wor Lor Por.

Working with the media: LGBTI organizations in China, the Philippines and Thailand have also worked with the media to improve representation of LGBTI people through providing support and guidance for responsible and accurate reporting on LGBTI communities. Awards such as the Rainbow Media Award (RMA) in China and Thailand are given annually to media that demonstrate responsible and constructive reporting on LGBTI issues. The Philippines LGBT Chamber of Commerce is also planning to give Diversity Awards to highlight work that contributes to LGBT communities.¹⁰⁰ In Thailand, the media have begun to cover more serious LGBTI issues, including discrimination in education and employment, though there still remains widespread sensationalistic coverage.¹⁰¹

100 See The Philippine LGBT Chamber of Commerce website: <http://lgbtph.org/programmes/>

101 A report on media coverage of LGBTI community commissioned by UNDP's Being LGBTI in Asia Programme called the 'SOGIE and Intersex in the Media Study' is forthcoming. The study revealed that certain sub-groups of the LGBTI population are underrepresented in Thai news platforms. Certain news media perpetuate popular stereotypes of LGBTI people by portraying just a small set of characteristics of their complex personalities. Stereotypes usually focus on the binary opposition between masculinity and femininity in Thai sexual culture.



4

LGBTI people's experiences of discrimination in the workplace

This chapter presents the major findings from the quantitative data collected through online surveys with 1,571 LGBTI respondents in China, the Philippines and Thailand. It was found that:

1. LGBTI people who work in Asia are a diverse group
2. The experiences of LGBTI people in the workplace in Asia are generally negative
3. Some LGBTI people are especially prone to negative treatment at work
4. LGBTI people hide their SOGIESC in the workplace, feel less satisfied with their jobs and are more likely to consider looking for new jobs because of their experiences of discrimination
5. There is little recourse to remedy the situation when LGBTI people experience workplace discrimination

6. Although very few workplaces in Asia have an LGBTI-inclusive policy in place, where they are in place, such policies have a positive impact

4.1 Diverse LGBTI workforce

The survey results indicated that LGBTI people who work in Asia are a diverse group in terms of age, educational level, religion and ethnicity. They come from both urban and rural areas. They work for both the private and government sectors. The income level among LGBTI people who work in Asia is varied. As Tables 8 and 9 reveal, LGBTI respondents represented different age groups, educational backgrounds, geographic locations and areas, ethnicities and religions.

Table 9: The characteristics of LGBTI respondents in China, the Philippines and Thailand

Characteristics	China	Philippines	Thailand	Total
	n (%)	n (%)	n (%)	n (%)
Total	443	540	588	1,571
Age				
18–25	243 (54.9%)	236 (43.7%)	224 (38.1%)	703 (44.7%)
26–35	164 (37%)	238 (44.1%)	244 (41.5%)	646 (41.1%)
36–45	28 (6.3%)	53 (9.8%)	96 (16.3%)	177 (11.3%)
> 46–60	8 (1.8%)	13 (2.4%)	24 (4.1%)	45 (2.9%)
Education				
Below Bachelor's degree	161 (36.3%)	119 (22%)	150 (25.6%)	430 (27.4%)
Bachelor's degree	215 (48.5%)	337 (62.4%)	277 (47.1%)	829 (52.8%)
Higher than Bachelor's	67 (15.1%)	84 (15.6%)	161 (27.3%)	312 (19.9%)

Geographic location				
Central	39 (8.8%)	76 (14.2%)	416 (70.7%)	531 (33.8%)
Eastern	95 (21.4%)	-	29 (4.9%)	124 (7.9%)
Northern	62 (14%)	11 (2%)	69 (11.8%)	142 (9%)
Northeast	57 (12.9%)	-	35 (6%)	66 (4.2%)
Northwest	-	-	-	26 (1.7%)
Southern	107 (24.2%)	31 (5.7%)	39 (6.6%)	177 11.3%
Southwest	83 (18.7%)	-	-	83 (5.3%)
Metro Luzon, Philippines	-	422 (78.1%)	-	422 (26.9%)
Area				
National capital city	52 (11.7%)	211 (39.1%)	367 (62.4%)	630 (40.1%)
Urban provincial/municipal	381 (86%)	306 (56.6%)	201 (34.2%)	888 (56.5%)
Rural	10 (2.3%)	23 (4.3%)	20 (3.4%)	53 (3.4%)

Table 10: Ethnicity of LGBTI respondents in China, the Philippines and Thailand

Characteristics	China	Philippines		Thailand	
	n (%)	n (%)		n (%)	
Total	443	540		588	
Ethnicity					
Han Chinese	410 (92.6%)	Tagalog	327 (60.6%)	Thai-Siam	208 (35.4%)
Others	33 (7.4%)	Cebuano	58 (10.7%)	Thai-China	228 (38.8%)
		Ilocano	25 (4.6%)	Thai-Thai/Laos	68 (11.6%)
		Pangasine	2 (0.4%)	Thai-Lanna	39 (6.6%)
		Kapam	16 (3%)	Thai-Cambodia	2 (0.3%)
		Bicolano	23 (4.3%)	Thai-Malay	10 (1.7%)
		Waray	17 (3.1%)	Thai-Vietnam	5 (0.9%)

	Ilonggo	16 (3%)	Hmong, Mien/Yao, Akha, Karen, Lisu, Kahu, Highlands	3 (0.5%)
	Surigaonon	5 (0.9%)	Lawa tribe	3 (0.5%)
	Zamboang	2 (0.4%)	Thai, other ethnic	10 (1.7%)
	Hiligay	15 (2.8%)	Foreign, minority foreign	12 (2%)
	Others	34 (6.3%)		

Around two-thirds of the respondents were full-time paid employees and at least half worked in the private sector, mostly in large companies and some in small businesses. The rest worked for government and state enterprises, NGOs and other types of employers, or were self-employed.

The respondents were from a range of monthly income groups: (1) low income (equivalent to a lower-range salary of an average university graduate or less); (2) middle income (junior to mid-level professionals); and (3) high income (high-level professionals, managers and higher).

Table 11: Income levels of LGBTI respondents in Asia

Income level	Under RMB 2,081	RMB 2,081–8,330	Over RMB 8,330	No answer	Subtotal (100%)
China	47 (17.1%)	149 (54.2%)	51 (18.5%)	28 (10.2%)	275
Income level	Under 15,001 PHP	15,001 – 50,000 PHP	Over 50,000 PHP	No answer	Subtotal (100%)
Philippines	51 (24.5%)	118 (56.7%)	29 (13.9%)	10 (4.8%)	208
Income level	Under 15,001 THB	15,001–60,000 THB	Over 60,000 THB	No answer	Subtotal
Thailand	93 (22.1%)	256 (61%)	45 (10.7%)	26 (6.2%)	420

4.2 Finding jobs

The experiences of LGBTI people in the workplace in Asia are mostly reported to be negative. LGBTI people surveyed experienced difficulties right from the beginning of job searches. For example, more than 60 percent

of the respondents in China, the Philippines and Thailand said they had seen a job advertisement that excludes their SOGIE in the job requirement. It was also extremely rare that LGBTI respondents were told that inclusive hiring policies were in place.

Table 12: Situations encountered during job searches by LGBTI respondents in China, the Philippines and Thailand

Situations	China (N=187)		Philippines (N=297)		Thailand (N=265)	
	Often (%)	Some-times (%)	Often (%)	Some-times (%)	Often (%)	Some-times (%)
Seeing a job advertisement that excludes my SOGIE in the job requirement	29	18	21	23	23	22
Being told that observing the “gender-correct” dress code is a condition to get the job	13	6	12	11	15	18
Being discouraged to apply for a particular job because it was “not appropriate for someone of my gender”	10	20	16	17	6	17
Being denied a job specifically due to SOGIE	5	3	10	8	6	15
Being told by the interviewer or prospective employer that they have LGBTI-inclusive hiring policy.	1	0.5	4	14	6	9

During interviews, significant proportions of respondents in Thailand (25 percent) and the Philippines (31 percent) reported often or sometimes being asked about their personal life

or sexuality. And 40 percent in Thailand and 25 percent in the Philippines received comments about their physical appearance as relating to their SOGIE.

Table 12: Situations encountered at the interview stage by LGBTI respondents in China, the Philippines and Thailand

Situations	China (N=187)		Philippines (N=297)		Thailand (N=265)	
	Often (%)	Some-times (%)	Often (%)	Some-times (%)	Often (%)	Some-times (%)
My qualifications and skills were the primary focus of the job interviewer	67	14	67	20	51	25
Being asked about personal life or sexuality in a job interview	5	11	7	18	8	23
Receiving comments about physical appearance vis-à-vis SOGIE	4	10	9	16	15	25
Being asked about SOGIE during a job interview	3	4	10	16	9	20
Being singled out for a psychological profile test not required for other job applicants	2	1	6	7	5	6

About 10 percent in China, 21 percent in the Philippines and 28 percent of the respondents

in Thailand believed that they were denied a job due to their SOGIE.

Table 13: Percentages of LGBTI respondents who believed they were ever denied a job due to their SOGIE in China, the Philippines and Thailand

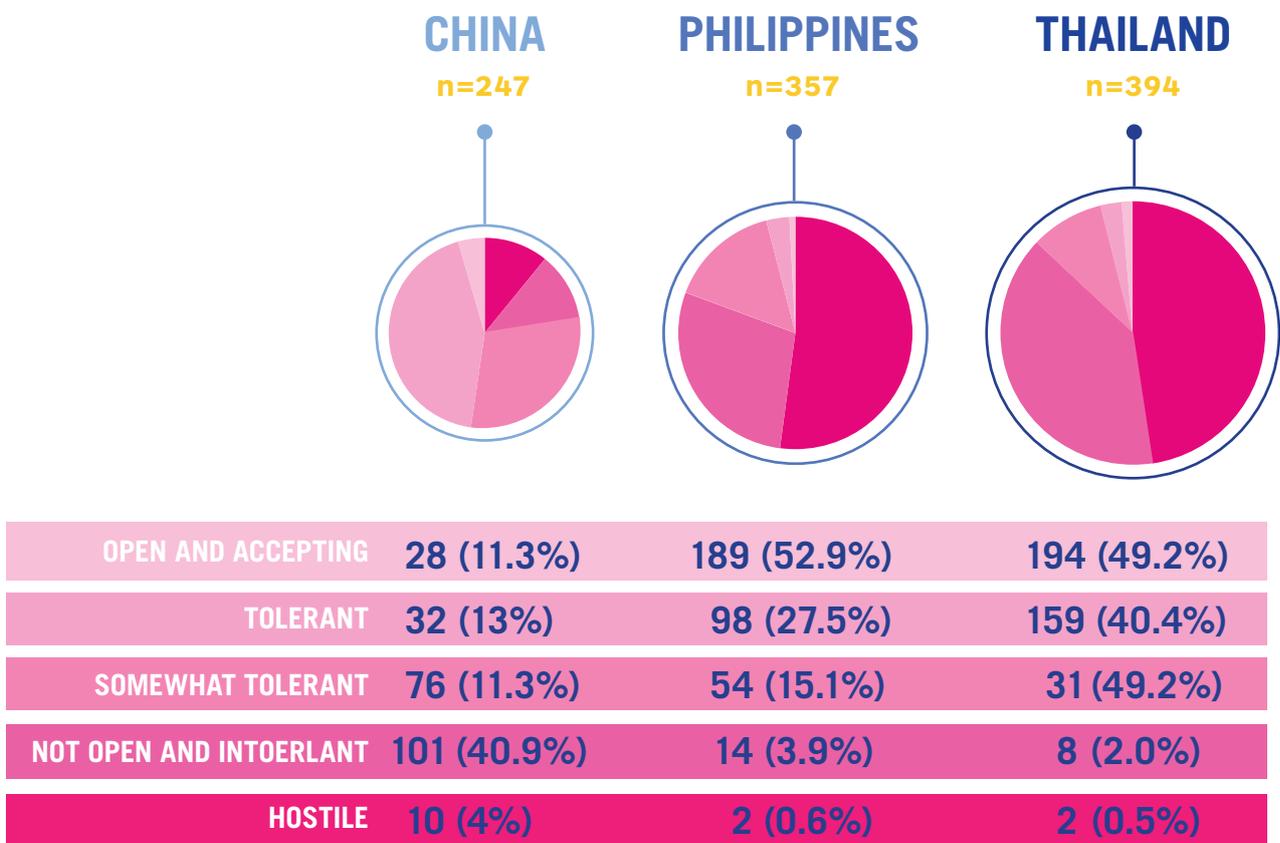
Denied job	China	Philippines	Thailand	Total
Yes	18 (9.6%)	62 (20.9%)	75 (28.3%)	155 (20.7%)
No	101 (54.4%)	165 (55.5%)	152 (57.4%)	418 (55.8%)
Not sure	68 (36.4%)	70 (23.6%)	38 (14.3%)	176 (23.5%)
Total	187 (100%)	297 (100%)	265 (100%)	749(100%)

4.3 Workplace climate and discrimination experienced

Roughly half of LGBTI respondents in the Philippines and Thailand found their workplace to

be open and accepting. However, in China, only 11 percent of the respondents considered their workplace as such, and about 41 percent of the respondents in China considered their workplace to be “not open and intolerant”.

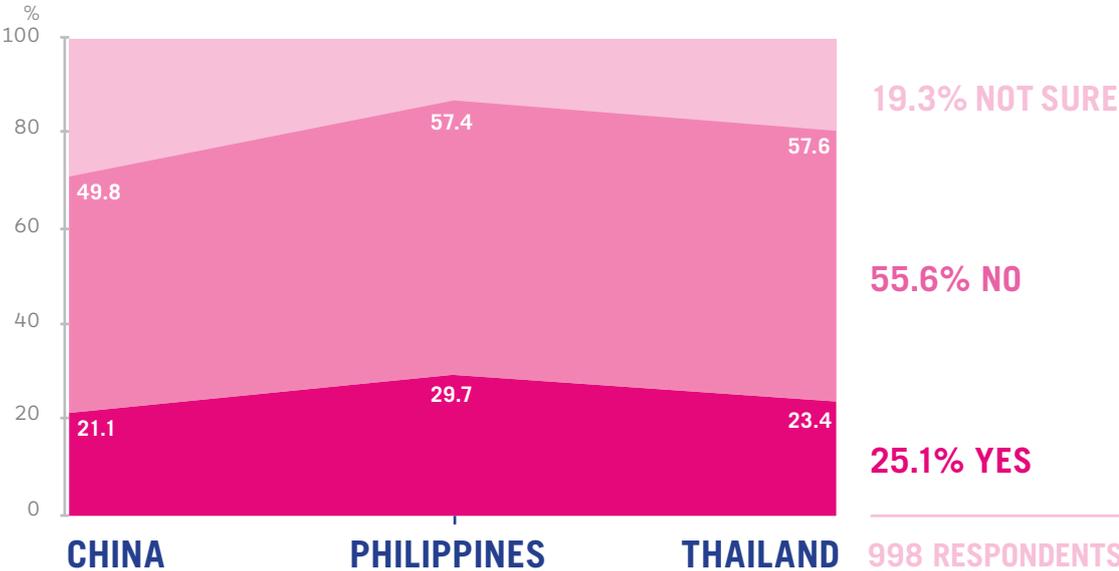
Table 15: Perceived general attitudes towards LGBTI people at work in China, the Philippines and Thailand



Around 21 percent of respondents in China, 30 percent in the Philippines and 23 percent in Thailand reported being harassed, bullied or discriminated against by others at work due to their sexual orientation, gender identity or expression and/or intersex status in their current or latest workplace. An additional 29.1 percent in China, 12.9 percent in the Philippines and

19 percent in Thailand said they were not sure whether they had been harassed, bullied, or discriminated against by others. That means that less than 60 percent of respondents in the Philippines and Thailand and about half of respondents in China could say for certain that they had not experienced harassment, bullying or discrimination at work due to their SOGIE.

Table 16: Percentage of LGBTI respondents in China, the Philippines and Thailand who reported experiencing workplace harassment, bullying or discrimination due to SOGIE or intersex status



The top three negative kinds of treatment reported (not necessarily directed at the survey respondents) were the same for all three countries, including people making jokes or

slurs about LGBTI persons, gossiping or sharing rumours about certain LGBTI coworkers, or making critical comments about how LGBTI coworkers dress, behave or speak.

Table 17: Negative experiences at work of LGBTI respondents in China, the Philippines and Thailand

	CHINA	PHILIPPINES	THAILAND
 <p>1 People make jokes or slurs about LGBTI persons</p>	<p>10% 15%</p>	<p>25% 48%</p>	<p>23% 42%</p>
 <p>2 People gossip or share rumours about certain LGBTI co-workers</p>	<p>12% 16%</p>	<p>19% 38%</p>	<p>15% 32%</p>
 <p>3 People make critical comments about how LGBTI co-workers dress, behave or speak</p>	<p>12% 27%</p>	<p>17% 37%</p>	<p>16% 38%</p>
 <p>4 LGBTI workers being harassed, bullied or discriminated against by others at work due to gender identity/sexual orientation</p>	<p>5% 15%</p>	<p>7% 23%</p>	<p>10% 23%</p>
 <p>5 People share homophobic, transphobic or anti-LGBTI stories or messages at work (online or face to face)</p>	<p>4% 9%</p>	<p>8% 22%</p>	<p>9% 19%</p>
 <p>6 LGBTI workers being denied training opportunities, job assignments or promotions due to gender identity/sexual orientation</p>	<p>5% 6%</p>	<p>4% 13%</p>	<p>12% 18%</p>
 <p>7 LGBTI workers being excluded from social activities by other co-workers</p>	<p>4% 8%</p>	<p>3% 13%</p>	<p>5% 13%</p>
 <p>8 LGBTI workers being excluded from work activities (such as work meetings)</p>	<p>3% 4%</p>	<p>3% 12%</p>	<p>4% 14%</p>
 <p>9 LGBTI workers being fired from a job due to gender identity/sexual orientation</p>	<p>3% 6%</p>	<p>2% 11%</p>	<p>4% 10%</p>

 **OFTEN**  **SOMETIMES**

In each of the three countries, there was a clear correlation between experiencing harassment, bullying or discrimination and being in an environment that was “not open and tolerant”.

The converse was also true: those who did not experience harassment, bullying or discrimination reported workplaces that were more “open and accepting”.

Table 18: Attitudes towards LGBTI people in the workplace and association with experience of harassment, bullying or discrimination in China

			Attitudes towards LGBTI people in the workplace					Total
			1. Open and accepting	2. Tolerant	3. Somewhat tolerant	4. Not open and tolerant	5. Hostile	
Experienced harassment, bullying or discrimination	Yes	Number	3	3	21	25	4	56
		%	5.4%	5.4%	37.5%	44.6%	7.1%	100%
	No	Number	21	25	34	45	3	128
		%	16.4%	19.5%	26.6%	35.2%	2.3%	100%
	Not sure	Number	5	5	24	37	4	75
		%	6.7%	6.7%	32%	49.3%	5.3%	100%
Total		Number	29	33	79	107	11	259
		%	11.2%	12.7%	30.5%	41.3%	4.2%	100%

Table 19: Attitude towards LGBTI people in the workplace and association with experience of harassment, bullying or discrimination in the Philippines

			Attitudes towards LGBTI people in the workplace					Total
			1. Open and accepting	2. Tolerant	3. Somewhat tolerant	4. Not open and tolerant	5. Hostile	
Experienced harassment, bullying or discrimination	Yes	Number	40	32	27	6	1	106
		%	37.7%	30.2%	25.5%	5.7%	0.9%	100%
	No	Number	129	54	15	6	1	205
		%	62.9%	26.3%	7.3%	2.9%	0.5%	100%
	Not sure	Number	20	12	12	2	0	46
		%	43.5%	26.1%	26.1%	4.3%	0%	100%
Total		Number	189	98	54	14	2	357
		%	52.9%	27.5%	15.1%	3.9%	0.6%	100%

Table 20: Attitude towards LGBTI people in the workplace and association with experience of harassment, bullying or discrimination in Thailand

			Attitudes towards LGBTI people in the workplace					Total
			1. Open and accepting	2. Tolerant	3. Somewhat tolerant	4. Not open and tolerant	5. Hostile	
Experienced harassment, bullying or discrimination	Yes	Number	32	47	10	3	0	92
		%	34.8%	51.1%	10.9%	3.3%	0%	100%
	No	Number	141	72	9	3	2	227
		%	62.1%	31.7%	4%	1.3%	0.9%	100%
	Not sure	Number	21	40	12	2	0	75
		%	28%	53.3%	16%	2.7%	0%	100%
Total	Number	194	159	31	8	2	394	
	%	49.2%	40.4%	7.9%	2%	0.5%	100%	

4.4 Vulnerable groups among LGBTI people

Those LGBTI people who are more open about their SOGIESC, especially transgender people, and those who work in the public sector

(national and local government and state-owned enterprises) reported experiencing higher levels of discrimination at work. Comparatively, in multinational companies and international non-governmental organizations (INGOs), lower levels of workplace discrimination were reported.

Table 20: Vulnerable groups among LGBTI people and association with experience of harassment, bullying and discrimination

			Cisman	Ciswoman	Trans woman	Trans man	Other	Total
China	Experienced being harassed, bullied or discriminated against	Yes	25 (19.4%)	9 (13.8%)	8 (32%)	9 (40.9%)	5 (27.8%)	56 (21.6%)
		No	68 (52.7%)	37 (56.9%)	10 (40%)	7 (31.8%)	6 (33.3%)	128 (49.4%)
		Not sure	36 (27.9%)	19 (29.2%)	7 (28%)	6 (27.3%)	7 (38.9%)	75 (29%)
Philippines	Experienced being harassed, bullied or discriminated against	Yes	14 (20%)	5 (10.2%)	12 (54.5%)	11 (61.1%)	64 (32.3%)	106 (29.7%)
		No	48 (68.6%)	35 (71.4%)	7 (31.8%)	3 (16.7%)	112 (56.6%)	205 (57.4%)
		Not sure	8 (11.4%)	9 (18.4%)	3 (13.6%)	4 (22.2%)	22 (11.1%)	46 (12.9%)
Thailand	Experienced being harassed, bullied or discriminated against	Yes	14 (18.2%)	19 (13.6%)	21 (43.8%)	24 (40.7%)	14 (20%)	92 (23.4%)
		No	51 (66.2%)	95 (67.9%)	24 (50%)	22 (37.3%)	35 (50%)	227 (57.6%)
		Not sure	12 (15.6%)	26 (18.6%)	3 (6.3%)	13 (22%)	21 (30%)	75 (19%)

Table 22: Type of organization in China, the Philippines and Thailand and association with LGBTI people not experiencing harassment, bullying or discrimination

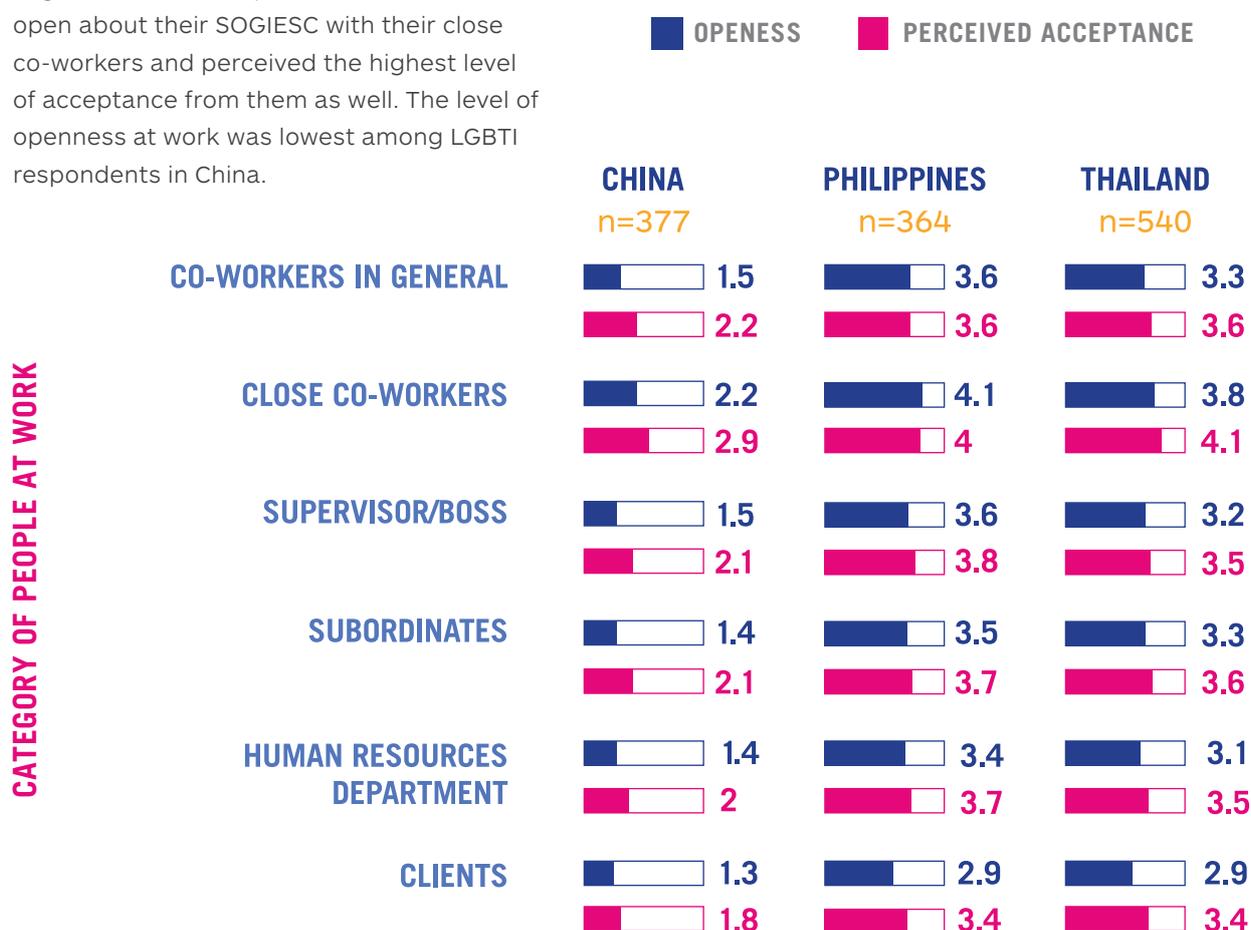
		Type of organization				Total
		Public (national govt, local govt, state-owned enterprise)	Local (private local, small business, local NGO)	International (private international, international NGO)	Other (business owner, freelance, other)	
Percentage of LGBTI people reported NOT experiencing being harassed, bullied or discriminated against in the workplace	China	47.7%	50%	61.5%	41.9%	49.4%
	Philippines	53.5%	57.4%	57.6%	61.5%	57.5%
	Thailand	54.5%	62%	62.4%	49.5%	57.6%

4.5 Level of openness, satisfaction with current job and consideration of leaving the workplace

It was found that many LGBTI people felt the need to hide their SOGIESC in the workplace. In general, LGBTI respondents were most open about their SOGIESC with their close co-workers and perceived the highest level of acceptance from them as well. The level of openness at work was lowest among LGBTI respondents in China.

Table 23: Degree of openness and perceived acceptance among LGBTI respondents with people at work in China, the Philippines and Thailand

Note: Scale: 1 'not open' to 5 'very open'; 1 'no acceptance' to 5 'full acceptance'.



Those LGBTI people who had been subject to discrimination also reported that they felt less satisfied with their job and are more likely to consider looking for a new job.

Table 24: LGBTI respondents' experiences of harassment, bullying and discrimination in China, the Philippines and Thailand and association with job satisfaction			Experienced being harassed, bullied or discriminated			Total
			Yes	No	Not sure	
China	Job satisfaction	Very satisfied	6 (10.7%)	15 (11.7%)	5 (6.7%)	26 (10%)
		Moderately satisfied	11 (19.6%)	47 (36.7%)	25 (33.3%)	83 (32%)
		Slightly satisfied	27 (48.2%)	52 (40.6%)	32 (42.7%)	111 (42.9%)
		Not satisfied	12 (21.4%)	14 (10.9%)	13 (17.3%)	39 (15.1%)
Philippines	Job satisfaction	Very satisfied	21 (19.8%)	74 (36.1%)	9 (19.6%)	104 (29.1%)
		Moderately satisfied	46 (43.4%)	104 (50.7%)	28 (60.9%)	178 (49.9%)
		Slightly satisfied	22 (20.8%)	21 (10.2%)	4 (8.7%)	47 (13.2%)
		Not satisfied	17 (16%)	6 (2.9%)	5 (10.9%)	28 (7.8%)
Thailand	Job satisfaction	Very satisfied	32 (34.8%)	92 (40.5%)	15 (20%)	139 (35.3%)
		Moderately satisfied	46 (50%)	109 (48%)	41 (54.7%)	196 (49.7%)
		Slightly satisfied	9 (9.8%)	18 (7.9%)	18 (24%)	45 (11.4%)
		Not satisfied	5 (5.4%)	8 (3.5%)	1 (1.3%)	14 (3.6%)

Table 25: LGBTI respondents who are looking for a new job and association with experiences of harassment, bullying and discrimination in China, the Philippines and Thailand			Experienced being harassed, bullied or discriminated			Total
			Yes	No	Not sure	
China	Looked for a new job in the past 6 months	Yes	36 (64.3%)	59 (46.1%)	45 (60%)	140 (54.1%)
		No	20 (35.7%)	69 (53.9%)	30 (40%)	119 (45.9%)
Philippines	Looked for a new job in the past 6 months	Yes	70 (66%)	89 (43.4%)	25 (54.3%)	184 (51.5%)
		No	36 (34%)	116 (56.6%)	21 (45.7%)	173 (48.5%)
Thailand	Looked for a new job in the past 6 months	Yes	57 (62%)	91 (40.1%)	37 (49.3%)	185 (47%)
		No	35 (38%)	136 (59.9%)	38 (50.7%)	209 (53%)

4.6 Little recourse to redress discrimination

Respondents to the survey reported little recourse to redress discrimination.

Only 7 percent of the respondents in China, 23 percent in the Philippines and 29 percent in Thailand said that a sexual orientation non-discrimination policy exists in their organization; and 6 percent in China, 41 percent in the Philippines and 29 percent in Thailand said that a

gender identity non-discrimination policy exists in their organization.

Only 5 percent of the respondents in China, 20 percent in the Philippines and 17 percent in Thailand stated that their organizations have an official complaint procedure for LGBTI discrimination cases.

More than 90% of the respondents in all three countries said that they were not aware of or there was no health coverage for gender-affirming surgeries in their workplace.

Table 26: LGBTI-inclusive policies in the workplace of LGBTI respondents in China, the Philippines and Thailand

Workplace policy that exists in the organization	China N=203			Philippines N=297			Thailand N=356		
	Yes %	No %	Don't know /N/A %	Yes %	No %	Don't know /N/A %	Yes %	No %	Don't know /N/A %
1. Anti-sexual harassment policy	18	45	37	67	14	19	30	44	26
2. Gender identity non-discrimination policy	6	61	33	41	33	26	29	44	27
3. Sexual orientation non-discrimination policy	7	63	31	23	41	35	29	44	27
4. Official LGBTI-inclusive recruitment and hiring policy	6	62	32	23	41	35	25	45	30
5. Equal benefits for employees' same-sex partners/spouses	8	57	35	24	50	26	16	56	28
6. Health coverage for gender-affirming surgeries for transgender employees	3	54	42	8	63	28	7	63	30
7. Official complaint procedure for LGBTI discrimination cases	5	56	39	20	46	34	17	53	31
8. Corporate social responsibility programme promoting gender-inclusivity	6	56	38	26	42	32	18	49	33

Only around 30 percent of the respondents who experienced workplace harassment, bullying and discrimination reported the problem. When they did so, it was mostly to the immediate supervisor or the human resources department. Even smaller percentages were satisfied with the result (16 percent in China and 24 percent in the

Philippines). Only in Thailand did more than half (53 percent) find the outcome of their complaint satisfactory. Respondents in China felt more comfortable in reporting harassment, bullying and discrimination outside of their workplace, to an LGBTI organization or a support group than to other people within the organization.

Table 27: LGBTI respondents' responses to reporting harassment, bullying and discrimination in China, the Philippines and Thailand

		China	Philippines	Thailand
Reported the problems if they experienced being harassed, bullied or discriminated against	Yes	15 (26.8%)	33 (31.1%)	27 (29.3%)
	No	41 (73.2%)	73 (68.9%)	65 (70.7%)
To whom they reported the problems	Direct supervisor or boss	6	14	13
	Human resources department	2	9	5
	Trade union or staff union	0	0	1
	Local labour office	3	0	0
	Labour court	2	0	0
	LGBTI organization or support group	5	2	1
	National Human Rights Commission	1	0	1
	Media or social media	3	2	5
	Police	3	0	1
	Other	1	2	2

4.7 Where policies are in place, they have a positive impact

As shown in the tables below, protective policies correlate with less experience of workplace discrimination. It is also noted that the percentage of respondents who said they were not sure whether they had experienced

harassment, bullying and discrimination was higher in workplaces where there are no protective policies compared to those that have such policies.

Table 28: Cross-tabulation between LGBTI respondents' experiences of harassment, bullying and discrimination and the presence of protective policies in the workplace in China, the Philippines and Thailand

			Experienced harassment, bullying or discrimination			Total
			Yes	No	Not sure	
China	No protective policies in place	Number	40	75	50	165
		%	24.2%	45.4%	30.3%	100.0%
	With protective policies in place	Number	8	29	12	49
		%	16.3%	59.1%	24.5%	100.0%
Philippines	No protective policies in place	Number	24	43	11	78
		%	30.8%	55.1%	14.1%	100.0%
	With protective policies in place	Number	62	126	28	216
		%	28.7%	58.3%	13.0%	100.0%
Thailand	No protective policies in place	Number	40	117	36	193
		%	20.7%	60.6%	18.7%	100.0%
	With protective policies in place	Number	36	97	29	162
		%	22.2%	60.0%	18.0%	100.0%

The higher number of workplaces with protective policies in place also correlates with higher levels of reported job satisfaction.

Table 29: China – Association between LGBTI-inclusive workplace policies and job satisfaction of LGBTI respondents

Workplace policies (A total score of 8)	Job satisfaction					p-value (Chi-square test)
	Very satisfied	Moderately satisfied	Slightly satisfied	Not satisfied	Total	
Low level (mean < 0.59)	7	47	76	28	158	0.001
High level (mean > 0.59)	8	20	13	4	45	
Total	15	67	89	32	203	

Table 30: Philippines – Association between LGBTI-inclusive workplace policies and job satisfaction of LGBTI respondents

Workplace policies (A total score of 8)	Job satisfaction					p-value (Chi-square test)
	Very satisfied	Moderately satisfied	Slightly satisfied	Not satisfied	Total	
Low level (mean < 0.59)	39	103	30	19	191	0.001
High level (mean > 0.59)	48	51	15	4	118	
Total	87	154	45	23	309	

Table 31: Thailand – Association between LGBTI-inclusive workplace policies and job satisfaction of LGBTI respondents

Workplace policies (A total score of 8)	Job satisfaction					p-value (Chi-square test)
	Very satisfied	Moderately satisfied	Slightly satisfied	Not satisfied	Total	
Low level (mean < 0.59)	79	118	45	242	191	0.03
High level (mean > 0.59)	48	56	10	114	118	
Total	127	174	55	356	309	

The image features a large, bold, pink number '5' centered within a dark blue rectangular area. This central element is surrounded by several overlapping rectangular blocks in various shades of blue and pink, creating a layered, geometric effect. The background is white, and the overall design is clean and modern.

5

**Regional and
national dialogues**

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This section describes regional dialogues pertaining to LGBTI people and employment, and national dialogues in China, the Philippines and Thailand. Following a general description of the context for the dialogues and the main discussions in each country, the section reports on the role of the private sector, positive initiatives in the region and in each country, and opportunities and ways forward, based on the national dialogues.

5.1 Regional dialogues

February 2015 brought together 225 representatives from various sectors from 33 countries and territories in Asia and the Pacific, actively encouraging private sector involvement in promoting LGBTI inclusion. In addition to the findings from the online survey in China, the Philippines and Thailand that showed LGBTI inclusive workplace policies have a positive impact on job satisfaction, the regional dialogue remarked that a more inclusive workplace culture increases productivity, improves corporate image, and increases employment loyalty. The dialogue recommended a human resource policy that gives employees the right to express their sexual orientation and gender identity, and use facilities and be referred to in accordance with their gender identity at work.¹⁰²

The dialogue noted the exclusion of transgender people from workplaces because of their gender expression, and stigma, violence and verbal abuse faced by gay men and lesbians at work.

The lives of bisexual and intersex people in the workplace remain little known.

In the private sector, regional discussions on LGBT inclusion¹⁰³ in the workforce have so far been largely led by multinational businesses. In Asia, where LGBT consumers' spending power is estimated at US\$1.1 trillion annually,¹⁰⁴ more global businesses are considering how to implement LGBT-inclusive workplace policies within local cultural contexts. The Out Leadership 2014 Asia Summit concluded that in countries where stigma against LGBT people is strong, companies need to be sensitive to local attitudes and create confidential, safe spaces for employees to be open about their gender identities and sexual orientations or sex characteristics within the firms. Given pervasive stigma and discrimination against LGBT people in many Asian countries, the role of business is pivotal in shaping LGBT-inclusive policies.¹⁰⁵

The Pride and Prejudice 2016 global discussion in Hong Kong, London and New York on 3 March 2016 hosted by The Economist Events with support from UNDP and a number of leading global businesses noted one area hindering global progress in LGBT diversity and inclusion is the lack of comparative data. Simon Baptist, Global Chief Economist and Managing Director for Asia at the Economist Intelligence Unit, argued that because the LGBT community is "a hidden minority, especially in Asia where a large number of people are in the closet," it is "harder to understand the real impact of diversity."¹⁰⁶

102 UNDP (2015). Report of the Regional Dialogue on LGBTI Human Rights and Health in Asia-Pacific. Bangkok. Available at: http://www.asia-pacific.undp.org/content/rbap/en/home/library/democratic_governance/hiv_aids/report-of-the-regional-dialogue-on-lgbti-human-rights-and-health.html

103 Little discussion has taken place on intersex issues in the business sector yet. To reflect this, 'LGBT' is used instead of 'LGBTI' where appropriate.

104 LGBT Capital (2015). Available at: [http://www.lgbt-capital.com/docs/Estimated_LGBT-GDP_\(table\)_-_July_2015.pdf](http://www.lgbt-capital.com/docs/Estimated_LGBT-GDP_(table)_-_July_2015.pdf).

105 Out on the Street: Asia 2014 – LGBT leadership summit, summary. Available at: <http://outleadership.com/event/out-on-the-street-asia-2014/> (accessed 15 August 2016).

106 The Economist Events (2016). Executive summary: Pride and Prejudice – The business and economic case of LGBT diversity and inclusion. 3 March, p. 10. Available at: http://www.lgbt-capital.com/docs/Pride_and_Prejudice_-_Executive_Summary.pdf (accessed 15 August 2016).

However, a business and economic case was advanced for promoting diversity and acceptance of LGBT people in the workplace. On one hand, not treating LGBT employees equally has an economic cost. In her research for the World Bank, Lee Badgett, professor of economics and director of the School of Public Policy at the University of Massachusetts Amherst, found that India lost up to 1.4 percent of its GDP by not ensuring equal treatment of LGBT people.¹⁰⁷ Treating wages as a measure of productivity, another study by Professor Badgett found a 10 percent drop in wages and productivity if LGBT employees were not able to perform to their full abilities.¹⁰⁸

On the other hand, there is a quantifiable benefit to having an LGBT-inclusive workplace culture. Professor Badgett explained, “Without the stress of having to hide... LGBT employees are happier, healthier, more productive and less likely to leave a company. For employers, lower staff turnover results in savings on the costs of recruitment and retention... Companies that embrace LGBT diversity and inclusion tend to perform better, which may also indicate that those companies operate in a smarter way in other areas.”¹⁰⁹

Despite economic benefits to LGBTI inclusion that include attracting skilled workers, helping innovation and fostering a global market that spends trillions of dollars, the Pride and Prejudice event noted that corporate Asia has been slow to act. It was also observed at the event that the situation for LGBT people is uneven across Asia, but there are indications of change due to generational changes in attitude in such countries as China, Japan, the Philippines and Viet Nam. The ‘Millennial Generation’, which is more open to gender diversity and same-sex relations, will be the main driver of the cultural shift on LGBT issues in Asia.¹¹⁰

5.2 National dialogues

National dialogues on LGBTI inclusion in the workplace have been initiated in China, the Philippines and Thailand in the past few years, as have collaborative efforts by international organizations such as UNDP and the ILO and some multinational companies in coordination with local LGBTI and civil society organizations. The dialogues brought together stakeholders from the private sector, government and public sector, and civil society, as well as leading experts and advocates from LGBTI communities in their respective countries, to promote awareness, identify key challenges and explore positive actions. While enthusiasm to engage in national dialogues is generally high among local LGBTI communities and certain segments of civil society, interest from government and the public and private sectors, employers and trade unions varies across countries but remains generally low (see participant profiles of Executive Dialogues and national discussions in Annex A).

The national dialogues and discussions identified opportunities that provide openings for more positive actions in relation to LGBTI inclusion in employment, despite challenges. For example, recent progress in legal protection for LGBTI people at the national level in Thailand and at the local level in the Philippines is seen as a stepping stone for further actions towards greater equality and fair treatment for LGBTI populations. More needs to be done to ensure equal protection from discrimination for all under national law in the Philippines and some clarifications and improvement are needed in relation to Thailand’s new Gender Equality Act.

The participants of the dialogues also noted that generational change in social attitudes towards LGBTI inclusion in society is taking place

107 M. V. Lee Badgett (2014). The Economic Cost of Homophobia and the Exclusion of LGBT People: A Case Study of India. World Bank

108 Ibid., p. 7.

109 Ibid.

110 Ibid.

at least in some countries, most significantly in China. The younger generation, in particular the ‘millennials’ born in the 1990s and later, will form a significant part of the future workforce as well as consumer market, and are often reported to be more open and more accepting of gender and other social diversity. Some challenges can also be turned into an opportunity. In China, a large segment of society still has uncertain attitudes towards LGBTI people largely due to their invisibility. This uncertain public opinion can be turned into more friendly attitudes with more positive messages and realistic portrayals of LGBTI people across various channels, including mainstream and social media. Similar opportunity also exists in other countries for creating awareness and better understanding among the younger generation and the wider public about LGBTI people.

While much more systematic, evidence-based data is needed in all countries in the region for better understanding the situation of LGBTI people in various sectors in the workforce, both formal and informal, recent years have seen more studies and surveys¹¹¹ contributing to a growing body of knowledge. This new data and analyses, such as this study, are important in advancing policy advocacy work and for formulating future policies and legislation.

Finally, the participants of the dialogues identified that existing positive initiatives and good practices in the countries in the study may be modest but offer entry points for more positive actions, synergy and expansion of activities, networks and alliances. Initiatives that work in some countries also serve as models of good practice for others.

China: UNDP and ILO brought together a total of 58 representatives from business, government-affiliated research institutes and civil society to learn how local and multinational corporations deal with LGBTI inclusivity in the workplace on two occasions in Beijing, on 16 October 2015 and on 26 January 2016.

Participants in the national focus group discussion in Beijing in January 2016 observed that since 2011, workplace diversity began to emerge in corporate social responsibility (CSR) reports of enterprises in China that monitored inclusive workplaces and discrimination based on attributes such as sex, physical features, and only in a few cases, on SOGIE. However, such reports remain limited to multinational companies.

At the October 2015 Executive Dialogue, participants acknowledged the growing “pink market”, which in China represents at least 70 million people, most of whom have high disposable income and a propensity to be loyal to brands that are supportive of LGBTI issues.¹¹² A generational change was also noted: younger employees are more open and supportive of a diverse working environment, and are starting to demand action from senior managers.

Yet, Chinese corporate culture is still conservative and there is a lack of legal and policy support for LGBTI issues. Open discussion of LGBTI issues is still difficult in China, making policymaking a challenge. Strict regulations on official registration of civil society organizations present a major challenge for effective social and policy dialogue. So far, only one organization specialized in HIV prevention has successfully registered under the Ministry of Civil Affairs.¹¹³

111 World Bank (2018). Economic Inclusion of LGBTI Groups in Thailand. Available at: <http://pubdocs.worldbank.org>; and, Open for Business (2018). Open for Business: Strengthening the Economic Case. Available at: <https://www.open-for-business.org/>

112 UNDP (2015). The business of LGBT inclusion in Asia – Executive dialogue with The Economist. 16 October, Available at: <http://www.cn.undp.org/content/china/en/home/presscenter/articles/2015/10/the-business-of-lgbt-inclusion-in-asia.html>.

113 Aibai Culture and Education Center (2014). A Review of Policies and Social Practices on the Human Rights of LGBTI People in the People’s Republic of China.

At the January 2016 discussion, a legal expert noted that the director of the legal department of the Ministry of Human Resources and Social Security (MOHRSS) gave a recommendation to China's Congress to include SOGI as additional prohibited grounds in the proposed revision of anti-discrimination provisions.

However, at present, there has been little support among lawmakers as most view existing provisions as sufficient. The government labour expert recommended making available more substantial data and statistics to drive legislative change with respect to SOGIE.

Given the political context, LGBTI communities have chosen a pragmatic approach to employment issues for LGBTI people. Rather than advocacy and lobbying, they have sought to build a legal record by filing discrimination cases, with an expectation that judicial interpretations and guidelines will be issued in the future by the Supreme People's Court on handling employment discrimination cases based on SOGIE when such cases reach the Court.

The invisibility of LGBTI people in China's workplace was discussed at both the Executive Dialogue co-hosted by UNDP and The Economist Events in October 2015 and the national focus group discussion in January 2016 in Beijing. Participants recognized invisibility of LGBTI people at work as a key challenge to overcome for LGBTI inclusivity in the workplace in China. At the Executive Dialogue, a Goldman Sachs representative noted a "stigma cascade" within his company, where just 4 percent revealed they were LGBTI, less than 1 percent were willing to be out within the company, and no one reported being involved in LGBTI-related activities. He explained that this extremely low rate of Chinese LGBTI people coming out at work was due to profound social pressure and fear of stigma and hostile reactions from family.

Participants in both national dialogues reported that it is mostly multinational companies that are engaged in promoting LGBTI-inclusive workplaces. Furthermore, many multinational corporations with a global policy on workplace diversity do not implement or promote such policies in China, and for those that have done so, the impact has been limited since the large majority of employees do not take part in diversity activities due to immense pressure to keep their SOGIESC private.

In the global business environment, participants in the October 2015 Executive Dialogue agreed on a culturally sensitive approach, that is, Western corporations entering the Asian market need to adapt to the local culture, while Asian companies seeking to expand abroad also need to familiarize themselves with a different legislative regime regarding hiring practices, expectations and treatment of the LGBTI workforce.

With respect to the latter, modest action is being undertaken by a few major Chinese companies operating overseas. In the January 2016 national discussion, participants noted that large Chinese corporations expanding overseas like Bank of China and Construction Bank of China have sought expertise from the local LGBTI community to provide gender diversity training to their employees in their global departments, although the training was not given to local employees working in China. Apparently, at this early stage, the attention is only focused on the foreign market. In another example, Petro China has included sexual orientation in its discrimination report, which is part of its CSR, but so far has provided no gender diversity training in the company. Aibai Cultural and Education Center has made an effort to engage China's state-owned companies (State Assets Administration) on LGBTI issues but has received no positive response.

Philippines: A national discussion on access to employment for LGBTI people and employment discrimination based on SOGIESC was jointly organized in the Philippines by Hewlett Packard Enterprise, Rainbow Rights Project and UNDP on 29 March 2016. At this event, 35 participants from the private and public sectors and from civil society and LGBTI organizations shared ideas about discrimination against LGBTI people in education, access to employment, treatment in the workplace, and challenges in obtaining redress in cases of discrimination, as well as good practices and the way forward.

During the discussion, key issues of workplace discrimination were highlighted by a representative from Rainbow Rights Project: problematic uniforms and bathroom access for trans employees, a lack of explicit policies and grievance procedures to tackle workplace discrimination, a lack of recognition of discrimination against LGBTI people among local employers as well as multinational companies, “protective” policies for LGBTI employees which may in fact limit their career opportunities, and so-called “constructive” dismissal, where LGBTI employees are pressured to leave their job voluntarily. Other issues shared by participants included discrimination based on gender stereotypes, forced “outing” at work, limited career opportunities, biased or arbitrary application of policies and subjective job performance evaluation for LGBTI employees, and lack of support for LGBTI employees from management.

Participants in the March 2016 national discussion shared good policies and practices from several multinational companies in the Philippines. Besides policies on gender (including LGBTI-inclusive recruitment and promotion and support for “coming out” by corporate leaders), LGBTI employees engage in gender diversity

activities inside and outside the company, such as setting up PRIDE clubs, organizing fairs or team-building events, and joining PRIDE marches.

In recent years, gender-inclusive action in the private sector has begun in multinational companies and is starting among domestic enterprises. Recognition of gender diversity in the workplace has been slowly taking effect with anti-LGBTI policies and practices gradually removed, equal access to job benefits granted to same-sex partners, and specific needs accommodated, such as access to toilets for transgender employees in some workplaces.

In 2009, IBM Global Services in the Philippines removed its anti-cross-dressing policy,¹¹⁴ and in 2013, the country office of Thomson Reuters granted equal health, life insurance and retirement benefits to employees’ same-sex partners.¹¹⁵ More multinational companies have implemented similar policies. The first private industry organization that promotes diversity and inclusion in the workplace for global financial institutions in the Philippines was an interbank organization, the Philippine Financial Industry PRIDE (PFIP), co-founded in October 2013 by Deutsche Bank, Wells Fargo, ANZ, HSBC and Thomson Reuters. PFIP is a network of inter-company employee groups aiming to push for equal and fair treatment of LGBTI employees in their respective companies.¹¹⁶ PFIP has expanded to include more international banks such as JP Morgan, Capital One, Citibank, and Standard Chartered Bank in the organization and to strengthen LGBTI employee resource groups.

Thailand: Discussion about LGBTI inclusion in the private sector in Thailand has been limited but vital discussions have been held. In 2014, the ILO launched the first report on employment discrimination based on SOGI in Thailand. The

114 UNDP, USAID (2014). Being LGBT in Asia: Philippines country report, op. cit.

115 Shakira Sison (2013). ‘The starting ripple in workplace equality.’ Rappler. 17 October. Available at: <http://www.rappler.com/move-ph/ispeak/41570-starting-ripple-workplace-equality-shakira-sison> (accessed 11 December 2015).

116 Ibid.

report noted the lack of social dialogue on the issue among the Thai LGBT community, government, employers' and workers' organizations. It also noted that no Thai LGBT organizations focused on LGBT employment issues or actively worked to promote labour rights for LGBT people. The ILO report launch in June 2014 marked Thailand's first large-scale national dialogue on the issue, in which over 160 representatives of stakeholders from various sectors joined in the validation of the research findings and the discussion.¹¹⁷ This event followed prior discussion forums held under UNDP's Being LGBT in Asia programme, which also covered employment issues facing the Thai LGBTI community.¹¹⁸

Since then, more events supported by UN agencies have provided platforms for further national discussions on the issue, including the Executive Dialogue and the national discussion in November 2015 and February 2016. These two forums had participation from 59 representatives from LGBTI communities, private sector, media, civil society and government, including the Ministry of Labour (MOL) and the Ministry of Social Development and Human Security (MSDHS).

The Executive Dialogue in Bangkok in January 2016 organized by UNDP and The Economist Events in partnership with the ILO, brought together 33 representatives from leading multinational and local companies in the legal and consulting, retail, media, and real estate sectors to share perspectives on corporate policies and practices on the inclusion of LGBTI workforce with representatives from the LGBTI, government and civil society sectors. The dialogue stressed the importance of diversity of talents in business success, and noted some differences between multinational and local businesses on corporate perspectives, policy

approach and practices regarding workforce inclusivity and job benefits for LGBTI employees.

At both national forums, participants noted that human resource professionals, legal professionals and state officials generally lack understanding about the human rights of LGBTI people. Most LGBTI people themselves also do not have sufficient understanding about the law and their human rights, and how to seek help. Many participants observed that the Gender Equality Act (2015), expected to provide safeguards against gender-based workplace discrimination, has not been well publicized and employers and workers are unaware of this new law.

The forums stressed the need to link the legal enforcement mechanisms under the Act to labour law, and to publicize the Act among employers in all sectors, in particular among human resources departments, legal and labour officials, and to the general public. In addition, it was highlighted that legal and policy protections need to be extended to those outside of the urban, white-collar workforce, including rural populations, blue-collar workers and people with lower levels of educational attainment in the informal economy. These groups should also be included in future policy discussions and dialogues.

In the February 2016 national discussion in Bangkok, one participant, a trans man, who left paid formal employment to start his own business shared that people in his position, while gaining relatively more freedom of self-expression, found themselves in a less secure financial position with less social protection, especially in an economic downturn. They face difficulties obtaining business loans without a stable income, or a legal spouse as a co-applicant.

117 ILO (2014). Gender identity and sexual orientation in Thailand, op. cit.

118 UNDP, USAID (2014). Being LGBT in Asia: Thailand country report, op. cit.

At both the Executive Dialogue and national discussion in Thailand, participants stressed the need to pay more attention to LGBTI people outside the formal workforce and urban areas, i.e. those struggling in the informal economy and poor, less educated, rural and ethnic minority populations who are largely excluded and faced with multiple, intersectional discrimination. It was also noted that there are no support systems for LGBTI workers forced to leave their job due to discrimination and invariably end up unemployed or underemployed in the informal economy.

It was thought that large multinational companies are more likely to have established policies and practices supporting LGBTI employees, such as same-sex partner benefits, whereas local companies are less likely to have formal policies, although they may be inclusive in practice. The forums agreed on the need for formalized human resource policies that protect the rights of LGBTI employees, more open and direct discussion of LGBTI issues at work, and more open and formal support from the leadership level.¹¹⁹

119 UNDP (2015). Private sector dialogue examines the human and economic impact of LGBTI workplace discrimination in Thailand, 3 November 2015. Available at: <http://www.th.undp.org/content/thailand/en/home/presscenter/articles/2015/11/03/private-sector-dialogue-examines-the-human-and-economic-impact-of-lgbti-workplace-discrimination-in-thailand.html>.



6

Recommendations



The key findings of the desk review, surveys and regional and national dialogues were:

- LGBTI people in China, the Philippines and Thailand do not have adequate legal protection from discrimination in the workplace, neither at the national level nor at the local level.
- There is a lack of information about the experience of LGBTI people and SOGIE-based discrimination in employment studies.
- The experiences of LGBTI people in the workplace in Asia are generally negative, and experienced from job searching through to hiring and employment. LGBTI people are denied employment, harassed, bullied and discriminated against and subject to verbal abuse and gossip.
- Those LGBTI people who are more open about their SOGIE or intersex status, especially transgender people, and those who work in the public sector (national and local government and state-owned enterprises) reported experiencing higher levels of discrimination at work.
- Many LGBTI people felt the need to hide their SOGIE or intersex status in the workplace.
- There is little recourse to remedy workplace discrimination experienced by LGBTI people.
- Only around 30 percent of the respondents who experienced workplace harassment, bullying and discrimination reported the problem.
- The few workplaces in Asia that have LGBTI-inclusive policies see positive impacts. The higher number of protective policies correlates with less experience of workplace discrimination in all three countries and higher levels of reported job satisfaction by LGBTI people.
- In order to address workplace discrimination against LGBTI people, cross-sectoral cooperation between the government, private sector, all levels of educational institutions, workplaces, media, civil society and other stakeholders is needed.

Based on these key findings, this report makes the following recommendations to the following stakeholders:

It is recommended that **all stakeholders**:

- **Work together to raise awareness** of LGBTI issues, promote and protect human rights of LGBTI people and non-discrimination, and implement relevant policies and laws to provide the enabling and supportive environment required for the employment of LGBTI people.
- **Pay more attention to marginalized LGBTI groups** because they tend to face discrimination based on multiple factors and are left out of policy discussions at the national level. These include LGBTI people in rural areas, belonging to ethnic or religious minority communities who tend to have low income, are less educated, work in the informal sector, and have less access to services and mainstream employment.
- **Initiate and participate in cross-sectoral dialogue and partnerships** to promote LGBTI inclusion in the workplace between relevant government entities, in particular those in charge of labour and human resources, multinational as well as local companies in the private sector, employers' organizations, trade unions, human rights institutions, and LGBTI and civil society organizations.
- **Strengthen the capacity of workers' organizations** to address discrimination towards LGBTI people with collective bargaining processes at national and enterprise levels.
- **Engage with the private sector**, especially local companies and enterprises, to foster a more LGBTI-inclusive corporate culture.

It is recommended that **governments**:

- Provide **legal protection for all workers against discrimination** on the grounds of SOGIESC in national laws and policies including by **expanding labour laws** to

include protection against discrimination on the grounds of SOGIESC, and **introducing comprehensive legislation** against discrimination on the grounds of SOGIESC in different sectors including education and employment. This should include mechanisms to support effective implementation, including access to mechanisms for redress of grievances.

- **Revise or repeal existing policies, administrative rules, regulations and ordinances** at the national, local or institutional levels that discriminate against LGBTI people. This includes ensuring that the gender marker on identity cards enables transgender and intersex people to have their preferred social gender properly recognized to ensure equal access to employment.
- Consider establishing an **advisory and monitoring** committee with effective mechanisms to ensure equal opportunity treatment for all workers regardless of SOGIESC. It shall also oversee effective implementation of labour laws and ensure access to the redressal of grievances.
- **Engage in a dialogue** with LGBTI communities, the private sector, employers' and workers' organizations, media and other relevant stakeholders, and promote sustained cooperation to promote and ensure the labour rights of LGBTI people.

It is recommended that **governments and the private sector**:

- Develop, implement and publicize **formal policies, dispute resolution mechanisms and codes of conduct to prevent and eliminate discrimination** on the grounds of SOGIESC and to ensure fair opportunities and treatment of all employees at all stages of employment and improve job satisfaction among LGBTI employees. These would include:
 - Official and actionable grievance procedures and dispute mechanisms

- Staff training, sensitization and awareness-raising on non-discrimination and SOGIESC issues to make sure such policies and mechanisms are properly implemented and LGBTI inclusive workplaces are established
- Transparent procedures and practices in relation to recruitment, promotion and evaluation criteria, compensation and dismissal

It is recommended that the **private sector**:

- Ensure that leaders and managers take **leadership and ownership** and are accountable in promoting equality and diversity in the workplace.
- Advocate for and share **good practices** among companies and industries. Build on existing good policies and practices in multinational companies and share experiences with and promote similar policies in local companies.
- Proactively engage with and provide **support to the civil society sector** to promote positive social change.
- Make a **business case for LGBTI inclusion** supported by evidence-based data and focus on the benefits for companies, organizations, employers and the economy.
- Approach LGBTI inclusion with a perspective of business and human rights as a core value **beyond corporate social responsibility**.
- Take the **leading role** in demonstrating that a LGBTI-inclusive workplace is possible and beneficial.

It is recommended that **civil society, multilateral agencies and non-government organizations**:

- **Improve awareness and capacity on LGBTI issues in the workplace** through more open discussion, education and training for executives, human resources personnel, officials and general employees.

- In each of the countries, engage with national companies with global reach to **expand gender diversity training** that is provided to employees in overseas operations to domestic operations.
- **Build allies and encourage positive change** through positive reinforcement, for example, giving awards to companies and organizations that act in support of equality for LGBTI people.
- Effectively communicate **messages about LGBTI inclusion** in the workplace to other stakeholders using targeted messages.
- Work with media on **fair and accurate representation of LGBTI people** and promoting better understanding about LGBTI issues among the general public.
- Advocate for and facilitate **more data and evidence** on LGBTI people in employment, particularly where there are gaps.
- Advocate for and support individual LGBTI people to **stand up for their labour rights**, and for LGBTI employees to fight against discrimination and promote equality and diversity in their workplaces.

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Appendices

Appendix A: Terminology

The terminology used around gender identity, gender expression, sexual orientation and sex characteristics is complex. The terminology is sometimes contested as individuals and communities interpret it in different ways, or seek to use it to promote particular ideas. Terminology is shaped by cultural and various other factors. Thus, the definitions below are a guide to how these expressions are used and referred to in this report, but are not definitive and may change with time.

Cisgender: A term used to describe a person whose gender identity matches their sex assigned at birth. It is the opposite term, or antonym, to transgender.

Gender-affirming health services: An umbrella term used to include any of the biomedical, surgical or health interventions a transgender person may undertake to align their physical body and their gender identity. This may include, for example, access to counselling support, hormone therapy, hair removal and a range of surgeries. The term 'gender-affirming surgeries' is preferred in this report rather than the older term 'sex reassignment surgery' (SRS).

Gender expression: A person's way of communicating gender externally, for example, androgyny, masculinity and/or femininity. This is done through physical appearance (including clothing, hairstyle, and the use of cosmetics), mannerisms, ways of speaking, and behavioural patterns when interacting with others.

Gender identity: A person's internal sense of being a man, a woman, a third or some alternative gender, a combination of genders or no gender. Everyone has a gender identity. A person's gender identity may not correspond with their sex assigned at birth.

Gender marker: How a person's gender is recorded on official documents. Gender markers usually include the designations of Male (M) and Female (F) as well as gendered name titles in the forms of Ms, Mrs and Mr.

Gender non-conforming: A person whose gender expression does not conform to prevailing societal or cultural expectations of what is appropriate for their gender.

Intersex/sex characteristics: Intersex people are born with sex characteristics (including genitals, gonads and chromosome patterns) that do not fit typical binary notions of male or female bodies. Intersex is an umbrella term used to describe a wide range of natural bodily variations. In some cases, intersex traits are visible at birth while in others, they are not apparent until puberty. Some chromosomal intersex variations may not be physically apparent at all. Being intersex relates to biological sex characteristics, and is distinct from a person's sexual orientation or gender identity. An intersex person may be straight, gay, lesbian, bisexual or asexual, and may identify as female, male, both or neither.

LGBT and LGBTI: Lesbian, gay, bisexual, transgender and intersex. The terms 'LGBT' and 'LGBTI' are increasingly used by community-based advocacy organizations in Asia and the Pacific. While different sexual orientations, gender identities and intersex variations should not necessarily be grouped together at all times, it can be helpful to group issues affecting LGBTI populations together for the purposes of advocacy and solidarity, while acknowledging that there are significant differences between the issues and priorities of each of these populations. However, it is equally important that when referring to the specific needs of one group that you mention the group explicitly.

Policy makers sometimes prefer other umbrella terms such as 'gender and sexual minorities', 'SOGIE minorities', 'SOGIESC minorities' or 'SOGIE-diverse communities'. However, for consistency, this report

uses the terms 'LGBT people' or 'LGBTI people'. The term 'LGBT' is used in this report where the context does not include intersex people. Because awareness of intersex issues and people has been relatively low until recently, and remains low, it is not always accurate to use the term 'LGBTI'. For example, if LGBT advocacy in a country does not yet include intersex issues, it would be inaccurate to add the 'I' to describe it.

In this report, the term 'LGBTI people' is intended to be inclusive of all gender and sexual minorities as well as those with intersex variations, regardless of whether they identify as lesbian, gay, bisexual, transgender, intersex or as another culturally specific identity.

Non-binary: A term used for gender identities that are not exclusively masculine or feminine and are outside of the gender binary.

Sex: This term refers to the biological characteristics used to categorize people as either male or female (see definition of Intersex).

Sex assigned at birth: The sex to which a person is assigned at, or soon after, birth. This assignment may not accord with a person's own sense of gender identity as they age. Most people's gender identity coincides with their sex assigned at birth. However, for transgender people, their gender identity or expression is different from their sex assigned at birth.

Sexual orientation: A term referring to each person's emotional, affectional and sexual attraction to, and intimate and sexual relations with other individuals. A person may be attracted to people of the same gender (homosexual/gay/lesbian), to people of a different gender (heterosexual) or more than one gender (bisexual or pansexual).

SOGI (sexual orientation and gender identity), SOGIE (sexual orientation, gender identity and expression) and SOGIESC (sexual orientation, gender identity or expression, and sex characteristics): This report predominately uses SOGIE and SOGIESC. SOGIE is used when intersex/sex characteristics are not included to ensure accuracy. While the use of 'LGBTI' has a stronger emphasis on communities and individuals, these terms refer more strongly to the broader concepts of how individuals identify themselves, are attracted to others and biological diversity.

The concepts of sexual orientation and gender identity vary across Asia, with a long history of culturally specific indigenous gender identities in different countries. There are many local terms used to describe SOGIESC subcultures in contemporary societies across the region. Terms typically have meanings that combine aspects of both sexual orientation and gender identity or gender expression. Alongside local identities, there are communities concentrated mainly in urban areas whose identities correspond more closely with Western subcultures of lesbians, gay men, bisexuals and transgender people.

Transgender: A term used to describe a person whose gender identity is different from their assigned sex at birth.

Transgender woman: A term used to refer to a transgender person who identifies as female (i.e. a person whose sex was assigned male at birth who identifies as female).

Transgender man: A term used to refer to a transgender person who identifies as male (i.e. a person whose sex was assigned female at birth but who identifies as male).

Transition: The process many, but not all, transgender people undergo to live 'authentically' in their gender identity. This process may involve altering their gender expression (such as name, clothing and hairstyle). Transitioning may also involve biomedical and surgical interventions that align the individual's anatomy with their gender identity.

Appendix B: Online survey

ONLINE SURVEY Working as LGBTI in China/Philippines/Thailand

INTRODUCTION

Hello, friends.

Are you over 18 years old?

Do you identify as lesbian, gay, bisexual, transgender, or intersex (LGBTI) person?

Are you living or working in China/the Philippines/Thailand?

FOR WHOM: If your answer is yes to all three questions, we kindly invite you to take this survey.

WHAT: This survey is part of a research project under 'Being LGBTI in Asia', an initiative aimed at advancing the well-being of lesbian, gay, bisexual, transgender and intersex (LGBTI) people and reducing inequality and marginalization on the basis of sexual orientation and gender identity and expression (SOGIE). This initiative is a regional partnership among the United Nations Development Programme (UNDP), the Swedish Embassy in Bangkok, and United States Agency for International Development (USAID), with a focus on China, the Philippines and Thailand.

WHY: The survey aims to explore the experiences of LGBTI people who work, used to work or are looking for work in China, the Philippines or Thailand. Currently, there is little information available about the employment situation of LGBTI people in Asia. The survey findings will contribute to a better understanding about key issues and challenges LGBTI people face in employment and inform the national policymaking process towards more equal treatments and opportunities, diversity and non-discrimination at work in the region.

HOW: The survey has five parts (A, B, C, D & E), and 48 questions in total. The questions are to be answered in the order in which they appear. Depending on your experience, not everyone will be asked to answer all questions, which are multiple choices or scale rating. It will take approximately 15 to 30 minutes to complete the survey. Please choose only one answer, unless otherwise instructed.

Please also be assured that your participation in this survey will be completely anonymous. We will only use the information provided in a general, collective way. No individual information will be disclosed, as we do not know who you are.

We are happy you have found us, and thank you in advance for your participation. There is no right or wrong answer. Please be truthful in your answer. **Enjoy!**

Note: This is the standard survey used for China, the Philippines and Thailand although some questions here are the ones used for China, and appropriate substitutions were made in the surveys in the Philippines and Thailand. The questions with * (6, 7, 8 and 14) were country-specific and offered different options for their respective country surveys. Some answers for question 12 on gender identity used local terms for different countries to ensure clarity. The salary scales in question 28 were adjusted to local income and currency.

Confirmation of your eligibility for the survey:

1. Are you over 18 years old?
 1. Yes
 2. No >> *send to Disqualification message*
2. Do you identify as lesbian, gay, bisexual, transgender, or intersex?
 1. Yes
 2. No >> *send to Disqualification message*

PART A: Demographic data

Please tell us about yourself. (Choose only one answer, unless otherwise indicated.)

3. How old are you?
 - 1) 18–25 years old
 - 2) 26–35 years old
 - 3) 36–45 years old
 - 4) 46–60 years old
 - 5) Over 60 years old
4. What is the level of education you have completed? (if still attending, choose the highest level completed)
 - 1) No formal education
 - 2) Elementary school
 - 3) Lower secondary/junior middle school
 - 4) Upper secondary/high school
 - 5) Technical/vocational school (equivalent to high school)
 - 6) One or more year of college, but no degree
 - 7) Associate degree (2-year college)
 - 8) Bachelor degree (4-year undergraduate)
 - 9) Master's degree
 - 10) Professional degree (MD, LLB, JD., DVM, DDS, etc.)
 - 11) Doctorate degree
5. Are you a Chinese/Filipino/Thai national?
 - 1) Yes
 - 2) No
6. In what region have you been living in the past 5 years? (If you have lived in more than one region, choose the region where you have spent the most time.)*
 - 1) Northeast region
 - 2) North region
 - 3) Central region
 - 4) East region
 - 5) South region
 - 6) Southwest region
 - 7) Northwest region

7. What is your ethnicity?*

- 1) Han Chinese
- 2) Other (please specify): _____

8. What is your religion?*

- 1) Animism, ancestor worship, or other folk religion
- 2) Buddhism
- 3) Roman Catholicism
- 4) Protestantism
- 5) Other Christian denomination
- 6) Daoism
- 7) Islam
- 8) No religion
- 9) Other (please specify): _____

9. What is the sex/gender registered in your official documentation?

- 1) Female
- 2) Male

10. What was your sex assigned at birth?

- 1) Female
- 2) Male
- 3) Other (please specify): _____

11. Intersex is a term for people born with atypical physical sex characteristics. There are many different intersex traits, such as not distinctly female or male, having both female and male sexual organs, or other variations. Do you have an intersex variation?

- 1) Yes
- 2) No

12. Which gender best describes how you see yourself?*

- 1) Female
- 2) Trans woman
- 3) Male
- 4) Trans man
- 5) Gender queer/neutral/non-binary
- 6) Other (please specify): _____

13. Do you consider yourself to be...?

- 1) Bisexual
- 2) Gay
- 3) Lesbian
- 4) Straight (heterosexual)
- 5) Asexual
- 6) Not sure
- 7) Other (please specify): _____

14. You are currently living in... *

- 1) Beijing (capital city)
- 2) An urban city
- 3) A provincial city/municipality
- 4) A rural district/village

15. What is your current marital status?

- 1) Single, never married
- 2) Married
- 3) Living with partner, not married
- 4) Divorced
- 5) Separated
- 6) Widowed

PART B: Openness and acceptance

16. In daily life, to what extent are you open about or discuss your true gender identity/sexual orientation?

- 1) I am open to everyone I know.
- 2) I am open to most but not everyone I know.
- 3) I am open to only a few special people in my life.
- 4) I keep my sexuality and/or gender identity only to myself.
- 5) I only tell if asked directly.

17. Please rate to what degree you are open about or discuss your gender identity/sexual orientation with your family and friends on the scale of 1 to 5 (1 being 'not open' to 5 'very open'). If you have no father, mother or specified relatives, choose N/A (not applicable).

	1 Not open	2 Slightly open	3 Moderately open	4 Mostly open	5 Very open	N/A (not applicable)
1. Your father						
2. Your mother						
3. Your brother or close male relatives						
4. Other male relatives						
5. Your sister or close female relatives						
6. Other female relatives						
7. Your friends						

18. Please rate the degree of acceptance for your gender identity/sexual orientation by your family and friends on the scale of 1 to 5 (1 being 'no acceptance' to 5 'full acceptance'). If you have no father, mother or specified relatives, choose N/A (not applicable).

	1 No acceptance	2 Low acceptance	3 Moderate acceptance	4 High acceptance	5 Full acceptance	N/A (not applicable)
1. Your father						
2. Your mother						
3. Your brother or close male relatives						
4. Other male relatives						
5. Your sister or close female relatives						
6. Other female relatives						
7. Your friends						

19. Please rate to what degree you are open about or discuss your gender identity/sexual orientation with people at work (at present or in your last job) on the scale of 1 to 5 (1 being 'not open' to 5 'very open'). If you have never worked or have no such group of people at work, check N/A (not applicable).

	1 Not open	2 Slightly open	3 Moderately open	4 Mostly open	5 Very open	N/A (not applicable)
1. Co-workers in general						
2. Close co-workers						
3. Supervisor/ boss						
4. Subordinates						
5. Human Resources Department						
6. Clients						

20. Please rate the degree of acceptance for your gender identity/sexual orientation by people at work on the scale of 1 to 5 (1 being 'no acceptance' to 5 'full acceptance'). If you have never worked or have no such group of people at work, check N/A (not applicable).

	1 No acceptance	2 Low acceptance	3 Moderate acceptance	4 High acceptance	5 Full acceptance	N/A (not applicable)
1. Co-workers in general						
2. Close co-workers						
3. Supervisor/ boss						
4. Subordinates						
5. Human Resources Department						
6. Clients						

PART C: Employment experience

21. Have you ever had an experience seeking employment?

- 1) Yes
- 2) No (skip to Question No. 47)

22. Are you currently employed or have you ever been employed?

- 1) Yes
- 2) No (skip to Question No. 39)

23. What is your current or most recent employment status?

- 1) Full-time paid employee
- 2) Part-time paid employee
- 3) Employer (self-employed/business owner with at least one regular employee)
- 4) Own account worker (self-employed with no regular employee, freelance)
- 5) Family worker (working/helping in family establishment or business)
- 6) Member of a cooperative
- 7) Casual, temporary or seasonal worker (working when there is a job)
- 8) Other (please specify): _____

24. What best describes your current or most recent job position?

- 1) Business owner, entrepreneur
- 2) Director, president, CEO, CFO
- 3) Manager, supervisor
- 4) Professional
- 5) Technician
- 6) Administrative, support staff
- 7) Service staff
- 8) Intern, volunteer
- 9) Freelance, independent contractor
- 10) Service staff, labourer (for example, factory worker, construction worker), domestic and care worker (nanny, driver, gardener, etc.)
- 11) Other (please specify): _____

25. In which sector of work are you currently employed? (drop-down menu)

- 1) Agriculture, livestock, forestry, fishing,
- 2) Arts, design
- 3) Business administration
- 4) Care and personal service (e.g. beauty care, child care, elderly care, domestic work, personal assistant, private chauffeur)
- 5) Construction, engineering
- 6) Computer, electronics, information technology
- 7) Culture, entertainment, sports
- 8) Education
- 9) Energy
- 10) Finance, banking
- 11) Government (civil service, police, military service)
- 12) Informal sector SME, including small, petty trade such as street vendor

- 13) International development
- 14) Health, medical and social services
- 15) Human resources management
- 16) Law, business consultancy
- 17) Leasing, commercial services
- 18) Manufacturing, supply chains
- 19) Media, journalism, photography
- 20) Mining
- 21) Public administration
- 22) Public relations, advertising
- 23) Real estate, residential maintenance and other services
- 24) Restaurant, catering
- 25) Retail, wholesale
- 26) Sales, customer service, marketing
- 27) Scientific research and development
- 28) Sex work
- 29) Telecommunications
- 30) Tourism, travel, leisure, hospitality
- 31) Transport, warehousing, logistics
- 32) Utilities, public facilities management
- 33) Water, environment conservation
- 34) Other (please specify): _____

26. What best describes your current or most recent employer?

- 1) Local company in formal private sector
- 2) Multinational company in formal private sector
- 3) Small business/trade in local informal sector
- 4) National government
- 5) Provincial/local government
- 6) State-owned enterprise
- 7) Local non-governmental or charitable organization
- 8) International non-governmental or charitable organization
- 9) Self (business owner)
- 10) No fixed employer (I am an independent contractor/freelance)
- 11) Other (please specify): _____

27. How long have you been working or did you work for this employer?

- 1) Less than 6 months
- 2) More than 6 months but less than 1 year
- 3) Between 1 year to 3 years
- 4) Between 3 to 5 years
- 5) Between 5 to 10 years
- 6) More than 10 years
- 7) I have no employer

28. What is your current monthly income in this job? (If you have no regular monthly income, give your best estimate.)*

- 1) Less than 830 Yuan

- 2) 830 – 2,080 Yuan
- 3) 2,081 – 4,160 Yuan
- 4) 4,161 – 8,330 Yuan
- 5) 8,331 – 12,500 Yuan
- 6) 12,501 – 20,830 Yuan
- 7) More than 20,830 Yuan

29. How satisfied are you with your current or most recent job overall?

- 1) Very satisfied
- 2) Moderately satisfied
- 3) Slightly satisfied
- 4) Not satisfied

30. What is the general attitude towards LGBTI people at your current or most recent workplace?

- 1) Open and accepting
- 2) Tolerant
- 3) Somewhat tolerant
- 4) Not open and intolerant
- 5) Hostile

31. Have you considered looking for a new job in the past 6 months?

- 1) Yes
- 2) No

(If yes, please specify your reason: _____)

32. Have you ever experienced being harassed, bullied or discriminated against in your current or past job because of your sexual orientation, gender identity or expression and/or intersex status?

- 1) Yes
- 2) No (skip to Question No. 36)
- 3) Not sure (skip to Question No. 36)

33. If you have experienced being harassed, bullied or discriminated against at work, did you report the problem to anyone?

- 1) Yes
- 2) No (skip to Question No. 36)

34. To whom did you report or file a complaint about your experience of being harassed, bullied or discriminated against? (Check all that applies.)

- 1) My direct supervisor or boss
- 2) Human Resources Department
- 3) Trade union or staff union
- 4) Local labour office
- 5) Labor court
- 6) LGBTI organization or my LGBTI support group (online or off-line)
- 7) National Human Rights Commission
- 8) Media or social media
- 9) Police
- 10) Other (please specify): _____

35. Did your report or complaint yield satisfactory result?

- 1) Yes
- 2) No
- 3) Don't know yet, my case is still ongoing.

36. Have you encountered the following situations concerning LGBTI people at your current workplace (or latest workplace, if you are not currently employed)?

<i>Situation at the workplace</i>	Often	Some-times	Rarely	Never	Don't know/N/A
1. People mention LGBTI persons in a positive way					
2. People make jokes or slurs about LGBTI persons					
3. People encourage LGBTI co-workers to be themselves openly as LGBTI at work					
4. People make critical comments about how LGBTI co-workers dress, behave or speak					
5. People gossip or share rumours about certain LGBTI co-workers					
6. LGBTI workers being harassed, bullied, or discriminated against by others at work due to gender identity/sexual orientation					
7. Transgender workers are allowed to dress according to preferred gender					
8. Transgender workers allowed to use men's or women's toilets					
9. People share homophobic, transphobic or anti-LGBTI stories or messages at work (via office communication such as email, phone, or face to face)					
10. Co-workers show support to LGBTI workers when they face negative treatment					
11. Superiors show support to LGBTI workers when they face negative treatment					
12. LGBTI workers being treated like other workers					
13. LGBTI workers being given training opportunities, job assignments or promotions due to gender identity/sexual orientation					
14. LGBTI workers being denied training opportunities, job assignments or promotions due to gender identity/sexual orientation					
15. LGBTI workers being excluded from work activities (such as work meetings)					
16. LGBTI workers being excluded from social activities by other co-workers					
17. LGBTI workers being fired from a job due to gender identity/sexual orientation					
18. LGBTI issues are discussed openly in work settings					
19. The workplace conducts gender diversity training					
20. There are openly LGBTI people in leadership positions					

37. Does your current or most recent workplace have toilets/bathroom facilities that you feel comfortable using?

- 1) Yes
- 2) No

38. Please indicate whether your current or most recent workplace has the following policies?

Policy	Yes	No	Don't know /NA
1. Anti-sexual harassment policy			
2. Gender identity non-discrimination policy			
3. Sexual orientation non-discrimination policy			
4. Official LGBTI-inclusive recruitment and hiring policy			
5. Equal benefits for employees' same-sex partners/spouses			
6. Health coverage for sex reassignment/correction surgeries for transgender workers			
7. Official complaint procedure for LGBTI discrimination cases			
8. Corporate social responsibility program promoting gender-inclusivity			

PART D: Job search experience

39. How long have you been or were actively looking for a job?

- 1) Less than 3 months
- 2) Less than 6 months
- 3) Less than 1 year
- 4) More than 1 year

40. In which sector of work are you currently or have been seeking employment? (dropdown menu)

- 1) Agriculture, livestock, forestry, fishing,
- 2) Arts, design
- 3) Business administration
- 4) Care and personal service (e.g. beauty care, child care, elderly care, domestic work, personal assistant, private chauffeur)
- 5) Construction, engineering
- 6) Computer, electronics, information technology
- 7) Culture, entertainment, sports
- 8) Education
- 9) Energy
- 10) Finance, banking
- 11) Government (civil service, police, military service)
- 12) Informal sector SME, including small, petty trade such as street vendor
- 13) International development
- 14) Health, medical and social services
- 15) Human resources management
- 16) Law, business consultancy
- 17) Leasing, commercial services
- 18) Manufacturing, supply chains
- 19) Media, journalism, photography
- 20) Mining
- 21) Public administration
- 22) Public relations, advertising
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- 26) Sales, customer service, marketing
- 27) Scientific research and development
- 28) Sex work
- 29) Telecommunications
- 30) Tourism, travel, leisure, hospitality
- 31) Transport, warehousing, logistics
- 32) Utilities, public facilities management
- 33) Water, environment conservation
- 34) Other (please specify): _____

41. Do you believe you have ever been denied a job because of your sexual orientation, gender identity or expression?

- 1) Yes
- 2) No
- 3) Not sure

42. In your job search experience, how often did you encounter these situations?

<i>Situation in job search and application</i>	Often	Some-times	Rarely	Never	Don't know/N/A
1. Seeing a job advertisement that excludes my gender identity in the job requirements (e.g. only male, only female, only transgender applicants)					
2. Being discouraged to apply for a particular job because it is "not appropriate for someone of my gender"					
3. Being asked about my gender identity or sexual orientation in a job interview					
4. My qualifications and skills were the primary focus of the job interviewer					
5. Being asked about my personal life or sexuality by the job interviewer or prospective employer					
6. Being told by the interviewer or prospective employer that they have an LGBTI-inclusive hiring policy					
7. Having comments made about my physical appearance vis-à-vis my gender identity or sexual orientation					
8. Being told I must observe the 'gender-correct' dress code if I want the job regardless of my gender identity					
9. Being singled out for a psychological profile test that is not usually required because of my sexual orientation, gender identity or expression, or intersex status					
10. Being denied a job specifically because of my gender identity or sexual orientation					

PART E: Access to healthcare

43. Does your current or most recent employer provide health benefits to employees?

- 1) Yes
- 2) No (skip to Question No. 48)

44. Are/were health benefits provided to employees on an equal basis?

- 1) Yes
- 2) No
- 3) I don't know

45. Are/were health benefits provided to different-sex spouses and same-sex partners of employees on an equal basis?

- 1) Yes
- 2) No
- 3) I don't know

46. Do you have an alternate means to access health care that you can afford?

- 1) Yes (skip to Question No. 48)
- 2) No (skip to Question No. 48)

47. What is/was the main reason you are/were not actively looking for work?

- 1) Full-time student
- 2) Full-time homemaker
- 3) Full-time caretaker of family member(s)
- 4) Unable to work due to disability or illness
- 5) Financially independent so don't need to work
- 6) Not enough education or skills to apply for a job
- 7) Afraid of being rejected
- 8) Denied a job too many times and given up looking for a job
- 9) Other reason _____ (specify).

48. What type of access to health care do you now have (that you may or may not use but can use if you wish to)? (Check all that applies.)

- 1) Free or subsidized government healthcare program
- 2) Private health insurance
- 3) Local or community health insurance cooperative
- 4) Health coverage through my parent or spouse's employment
- 5) I pay for my own health care
- 6) I cannot afford to pay for health care

>>END OF SURVEY<<

Appendix C: Executive Dialogues and National Discussions – participant profiles (October 2015–March 2016)

Executive Dialogue: The Business of LGBT Inclusion in Asia

16 October 2015, UNDP, Beijing

35 participants

- *Private sector (15 persons):* IBM, IBM China, Goldman Sachs, McKinsey & Company, Microsoft, Amer International Group, Interpublic Marketing Services Ltd., LESDO, China GreenBiz, SOHO China, Danian (Blued)
- *Public sector experts (3 persons):* China Labour Studies Institute (Ministry of Human Resources and Social Security), China CDC/NCAIDS, Peking University
- *LGBTI and civil society organizations (12 persons):* Aibai Culture and Education Center, Beijing LGBT Center, ZHITONG Guangzhou LGBT Center, WorkForLGBT, Gender Health Education Institute, Common Language, Community Business, Out Leadership, International Center for Communication and Development (ICCD)
- *UNDP and partners (5 persons):* UNDP, ILO, The Economist

Executive Dialogue: The Business of LGBT Rights in Asia

3 November 2015, United Nations Conference Centre, Bangkok

33 participants

- *Private sector (8 persons):* Baker & McKenzie, Minor International, Lazada Group, Tilleke & Gibbins, The Mall Group, Voice TV, DD Property,
- *Government (8 persons):* Ministry of Social Development and Human Security (Department of Women's Affairs and Family Development), Ministry of Labour
- *LGBTI organizations (6 persons):* Togetherness for Equality and Action (TEA) Group, Thai Transgender Alliance, Krapook Taek for Gender and Environmental Rights, Bangkok Rainbow Organization, Transfemale Association of Thailand, Transmen Alliance of Thailand
- *UN agencies (11 persons):* UNDP, ILO, UNAIDS, The Economist

National Discussion on Employment Discrimination Based on Sexual Orientation and Gender Identity or Intersex Status of LGBTI Persons in China

26 January 2016, UNDP, Beijing

23 participants

- *Public sector (1 person):* China Labour Studies Institute (Ministry of Human Resources and Social Security)
- *LGBTI and civil society organizations and individual activists (12 persons):* Aibai Culture and Education Center, Beijing LGBT Center, Common Language, G-spot Magazine, LGBTI Rights Promotion Association, Rainbow Lawyers Association

- *Academics and experts (6 persons):* Peking University, China Women's University, University of Politics and Law, American Bar Association
- *UN agencies (4 persons):* UNDP, ILO

National Discussion on Employment Discrimination based on Sexual Orientation, Gender Identity or Intersex Status in Thailand

4 February 2016, Amari Watergate Hotel, Bangkok

26 participants

- *Private sector (5 persons):* Company names not disclosed
- *Public sector (6 persons):* Ministry of Social Development and Human Security (Department of Women's Affairs and Family Development), Ministry of Labour, Bangkok Mass Transit Authority Labour Union
- *LGBTI organizations (6 persons):* Togetherness for Equality and Action (TEA) Group, Mplus Foundation, Krapook Taek for Gender and Environmental Rights, Bangkok Rainbow Organization, Sisters Foundation
- *Civil society organizations and media (5 persons):* Teerarat Kanjanaukson Foundation, Sangsan Anakod Yaowachon Development Project, Network for Health and Gender Equality, Bangkok Post, Khaosod English
- UNDP (4 persons)

National Discussion on Access to Employment for LGBTI People and Employment Discrimination Based on SOGIE and Intersex Status in the Philippines

29 March 2016, Hewlett Packard Enterprise, Eton Centris, Quezon City

35 participants:

- *Private sector (15 persons):* Hewlett Packard Enterprise, JP Morgan Chase, Thomson Reuters, HSBC, IBM, Concentrix, Corporate Executive Search, The Philippine LGBT Chamber of Commerce
- *Public sector (6 persons):* Commission on Human Rights, Department of Labor and Employment, Employees' Compensation Commission
- *LGBTI and civil society organizations (14 persons):* Rainbow Rights Philippines, Inc., GALANG Philippines, Psychological Association of the Philippines (LGBT Special Interest Group), Out Leadership, Babaylanes, Inc., Public Services Labor Independent Confederation (PSLINK)
- *UNDP and other unaffiliated participants (5 persons)*



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**United Nations Development Programme
Bangkok Regional Hub**

United Nations Service Building,
3rd Floor Rajdamnern Nok Avenue, Bangkok 10200,
Thailand

Email: registry.th@undp.org

Tel: +66 (0)2 304-9100

Fax: +66 (0)2 280-2700

Web: <http://asia-pacific.undp.org/>