

# Legal Issues in Asia

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(until Feb 2006)

# Preliminaries



- Need more research, translation, and information sharing on the legal situation in Asia
- Need to ensure Asian experiences and Asian voices properly represented in the dialogue on trans rights, and in formulating a truly global consensus on the way forward

# Gender expression

- Call for the de-criminalisation of gender expression through “cross-dressing”
- Call for right to change one’s body
- Examples:  
Malaysia and Nepal

Marisha, Blue Diamond Society, BBC News



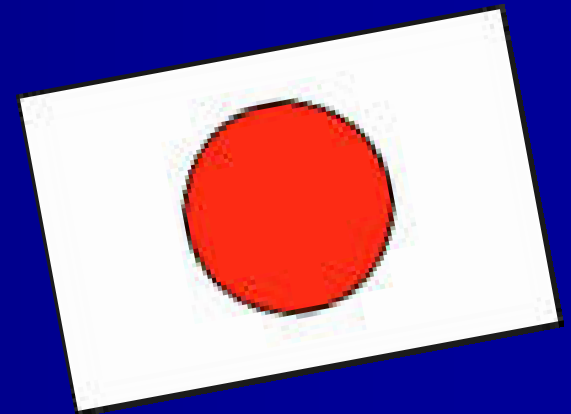
# Gender recognition

- Call for countries to implement legislation allowing trans people to change their legal sex
- Despite large trans population, Asia lags behind



# Gender recognition

- **Japan = only country in Asia with full gender recognition legislation (2004)**
- Singapore and Taiwan recognition for marriage
- **Japan's law = v. conservative.** Conditions:
  - GID diagnosis
  - Sex reassignment surgery
  - Sterility
  - Not married
  - No children



# Important



- SRS as a precondition to legal recognition = particularly problematic in Asia
- Financial barrier = enormous: Hong Kong probably only country in Asia to provide SRS on public health service
- Also, many trans people in Asia say that they do not need/want SRS

# Gender recognition



- Case-by-case recognition by the courts or administrators - China, Philippines, Indonesia, South Korea
- Assisted small number of individuals
- Only after SRS
- Not reliable (Philippines)
- Not generally accessible
- Risk of publicity



# Gender recognition

- **Other countries**, such as Thailand, Hong Kong, Vietnam, no legal recognition at all.
- Consequences :
  - Violation of privacy
  - Exposure to discrimination
  - Not able to marry heterosexually according to gender identity
  - Regarded for all purposes in law as birth sex

# Discrimination

- Not aware of any protection against trans discrimination in Asia, other than Hong Kong (but = disability discrimination)
- Call for all existing UN treaties, regional human rights treaties, constitutional provisions and domestic legislation which prohibit discrimination (e.g. on the grounds of "sex or other status") to be interpreted to prohibit discrimination on the grounds of gender identity and expression.
- Call for anti-discrimination protection where none exists.

# Importance of UN and other int'l resolutions



- Asia - no regional human rights treaty or enforcement body (court/commission)
- Few countries ratified UN individual complaints mechanisms
- However, large network of national human rights commissions, some with complaints mechanisms
- UN resolution potential to play important role in advocacy efforts in Asia