

SOGIE Policy and Human Rights in Asia: An International Comparison

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Abstract

In June 2016, the United Nations Human Rights Council adopted a resolution on “Protection against violence and discrimination based on sexual orientation, gender identity and expression (SOGIE).” In contrast to European countries, Asia is generally known for not upholding LGBT rights. In February 2019, Taiwan presented a same-sex marriage bill, a first for East Asia, a draft of legislation granting similar legal protections to same-sex couples as heterosexuals. However, while other countries like Japan and China still follow a conservative legal system and do not provide equal rights to LGBT people, some Asian countries have penalties for homosexuality. In light of this, the research aims to identify factors that affect the legalization of SOGIE human rights protection worldwide. Data extracted from the World Bank was analyzed using ordered probit regression. From the results, it can be deduced that religious beliefs, gender equality and a nation’s democratic conditions were strong contributing factors to SOGIE legalization and protection.

Key Words: SOGIE policy, Gender, Asia, Human Security

1. Introduction

Looking into the global context of SOGIE¹ policy legalization, Langlois (2020) states that while the question of rights protection for the lesbian, gay, bisexual and transsexual (LGBTQ+) has recently been a topic of proactive engagement, it has received severe resistance. In 2007, the Yogyakarta Principles set a

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framework that placed SOGIE rights within the pre-established rights framework. The principles confirmed the participation of states in having positive obligations to prevent discrimination against its citizens and individuals based on their sexual orientation or gender identity (Kremin, 2017). This was followed by the first report on LGBT rights in 2011, published by the United Nations, containing a joint statement by over 80 countries on ending acts of violence and related human rights violations based on sexual orientation and gender identity (SOGI). However, as of December 2019, while six United Nations Member States still impose the death penalty for consensual same-sex sexual acts, twenty-six countries in the world impose a maximum penalty varying between 10 years to life imprisonment (ILGA, 2019). Criminalization of such acts has led to sexual and gender minorities living in fear leading to the United Nations Office of the High Commissioner for Human Rights (OHCHR) focusing on the decriminalization based on sexual orientation and gender identity as one of the focal points against discrimination.

Recognition of discrimination on the grounds of SOGI has led to an increased focus on the prevalence of such discrimination against LGBTQ+ individuals around the world. This discrimination leads to exclusion which gravely impacts the lives of LGBTQ+ people and their surrounding communities. Consequently, impacting the nation's economy from the absence of participation of such minorities. This behavior of discrimination often stems from the ideology that individuals conform to socially constructed ideals of masculinity and femininity. The solution calls for a change in society's attitude towards sexual and gender minorities, which can often be achieved through legalizing same-sex sexual activity (Cortez, Arzinos and Soto 2021).

An example of legalization translating into a change in attitudes of a country's public is the United States of America, where in 2015, all fifty states recognized and legalized same-sex marriage resulting in 61% of Americans supporting same-sex marriage (Pew Research Center, 2019). The same can also be seen in Europe, where a majority of the northern and western countries of the EU have legalized same-sex marriage resulting in a majority support for the same from Sweden (88%), Denmark (86%) and the Netherlands (86%) (Pew Research Center 2017). However, such is not the case for Asia, where the legalization of same-sex marriage in Israel (year of legalization: 1988) did not stem from the prospect of protection for the LGBTQ+ community but instead as a strategy for international recognition (pink-washing²) and its desperate fight against the growing Palestinian-led boycott. The same can be said for Taiwan (year of

legalization: 2019), where the legalization of same-sex marriage was adopted as a strategy for being internationally recognized as a country.

Giving the example of Peru, the only Latin American country to reject the adoption of SOGI policies, Urrunaga and Sosa-Villagarcia (2019) state that the struggle for the adoption of SOGI policies is still in favor of conservative groups of the society, despite having several progressive activists and experts in the Peruvian government. While the Church's influence over the government may have declined over time, they have retained their power through street mobilizations and social activism. Kremin (2017), in his research on factors that recognize SOGI for asylum seekers in Sub-Saharan Africa, states that there are few legal protections for LGBTI individuals due to high levels of cultural stigmas and the implementation of sections in the penal code that criminalize homosexual activity. In Asia, Consejería et al. (2020) found no country in the Asia Pacific region to have legalized same-sex marriage. The authors, however, state that the factors for Taiwan to legalize same-sex marriage are to be a part of democratic development and to gain international recognition. While even though Thailand may be considered a heaven for LGBT people, political constraints have been recognized as one of the main factors that stand in the way of legalizing same-sex marriage. With inadequate literature on reasons for a country to legalize and provide SOGI human rights protection, this research attempts to highlight specific factors worldwide. In addition, special emphasis will be given to factors considered among Asian countries regarding the legalization and protection of SOGI.

Once an overview of SOGIE legalization among Asian countries has been expanded, the discussion will dive into the research design and methodology, followed by the analysis and discussion of results. The discussion will first look into the global factors that affect the legalization score of a continent, followed by an examination of factors that affect the legalization score of Asian countries. The paper will then be concluded with a discussion on the implications of the argument and the future expansions for identifying factors.

2. SOGIE legalization in the Asian context

2.1. SOGIE in Asia

Unlike other continents, generalizing engagement of human rights among the countries in Asia is complex. The Conference on Disability, SOGIE, and

Equality in Asia, held in Kyoto, Japan, on 6-7 August 2018, focused on the main issue of a lack of proper response by mainstream society to situations of individuals with multiple identities who identify as LGBT persons (Osaka, 2018). It also identified resistance among individuals in the disability and SOGIE groups in standing for one another resulting in the prevention of the adoption of appropriate responses within their respective groups to the needs of LGBT persons. Individuals belonging to the LGBT community, either feared backlash from discussing SOGIE issues (Mongolia), belonged to a society with strong traditional values that stigmatize SOGIE (Vietnam), or rejected feminist thinking (Indonesia).

While the ASEAN region of Asia may be conservative on SOGIE matters, the region contains many heterogenous SOGIE populations. The recent document release of ASEAN 2025 at the Kuala Lumpur summit emphasizes a community vision through to 2025, focusing on three 'pillars'-the Economic, the Political-Security and the Socio-Cultural (ASEAN Secretariat, 2015). To which the ASEAN People's Forum (APF) responded that the document failed its objective by refusing to recognize or affirm the principles of inclusivity and non-discrimination, leading to a continuation in the oppression of SOGIE minorities (Langlois et al., 2017). While, as of now, none of the ASEAN state policies protect people from SOGIE-based discrimination, it has been argued by many that this may be due to the fact that crucial articles in the ASEAN Human Rights Declaration can be easily manipulated to deny minority groups protection. Following Cheo's (2014) theoretical framework on the legality of homosexuality globally, this section will refer to certain factors pertaining to Asia

2.2. Religion and SOGIE legalization in Asia

Much resistance towards SOGIE legalization in Asian countries stems from a shared belief in Asian values and strong religious beliefs that find homosexuality sinful. According to Boll (2001), Asian values emphasized communitarianism rather than individualism, social order and harmony, respect for elders, discipline and paternalism, whereas Langlois (2001), in his research, stated that it characterized antipathy towards human rights. Other perspectives by Asian researchers portray homosexuality as a western behavior imposed upon eastern cultures as a decadent, neo-colonial side effect of globalization. While it may be contested that the 'homosexuality phenomenon' isn't Asian, Wong makes a strong argument by mentioning the presence of homosexuality in the Kama Sutra³ in India, among Han dynasty rulers in China and throughout the Ashikaga and Edo

eras of Japan. He further goes on to say that the arrival of Christian missionaries into Asian countries and the Meiji restoration in Japan led to a conformation of these countries with conservative Western attitudes.

Table 1: LGBT protection in Asia in 2019

Illegal	No protection	Protection	Recognition
Afghanistan	Bahrain	Timor-Leste	Israel
Bangladesh	Cambodia	Macao SAR, China	
Bhutan	China	Mongolia	
Brunei Darussalam	Palestine	Nepal	
Iran, Islamic Republic	India	Korea Republic	
Kuwait	Indonesia	Taiwan	
Lebanon	Iraq	Thailand	
Malaysia	Japan		
Maldives	Jordan		
Myanmar	Kazakhstan		
Oman	Kyrgyz Republic		
Pakistan	Lao PDR		
Qatar	Korea Dem People's Republic		
Saudi Arabia	Philippines		
Singapore	Tajikistan		
Sri Lanka	Vietnam		
Syrian Arab Republic			
Turkmenistan			
United Arab Emirates			
Uzbekistan			
Yemen Republic			

Source: Author's compilation based on ILGA (2019)

Table 1 displays the categorization of Asian countries based on legalization and protection for SOGIE. Among the twenty-one Asian countries with laws criminalizing SOGIE, resulting in same-sex marriages being illegal, seventeen countries had a majority population practicing the religion- Islam. Sixteen Asian countries did not have laws criminalizing SOGIE or protecting the LGBT community. Out of these countries, Islam was the main religion practiced in eight. Seven Asian countries had laws protecting the LGBT community by criminalizing discrimination based on SOGIE. Among these countries, Buddhism

was practiced by the majority population in four countries. Only one country, Israel, where Judaism is the main religion, had laws recognizing same-sex marriages and protecting the LGBT community. From Table 1, it can be understood that countries, where the majority population practiced Islam, found homosexuality 'unnatural,' resulting in laws that criminalize SOGIE or provide no protection for the LGBT community.

With Islam being the dominant religion among ASEAN countries (Brunei, Malaysia, and Indonesia), Brunei and Malaysia have laws that criminalize homosexuality. In contrast, Indonesia has not adopted any laws that protect the same. Hence portraying a repressive attitude towards homosexuality (Rehman & Polymenopoulou, 2013). Buddhism, the second dominant religion among ASEAN countries (Myanmar, Cambodia, Laos and Thailand), has only Myanmar criminalized homosexuality, while Cambodia and Laos did not adopt protection laws. On the other hand, Thailand adopted laws that provided security for the same. Finally, Christianity is the third major religion among ASEAN countries (Philippines and Timor-Leste); the Philippines had not adopted laws that protected homosexuality, whereas Timor-Leste adopted laws protecting the same. With homosexuality being perceived as unnatural among Christians, the Philippines providing no protection is understood. However, in the case of Timor-Leste, although there are laws that criminalize discrimination based on sexual orientation, no policies have yet been created that directly tackle LGBT rights or protect the community (Li Li Chen, 2022).

2.3. Economy development and SOGIE legalization in Asia

According to a survey by the Pew Research Centre conducted in 2019, the acceptance rate of homosexuality tends to be higher among wealthier countries. Poushter and Kent (2020), on looking at homosexual acceptance globally, found people living in Western Europe and America to be generally more accepting than in Eastern Europe, Russia, Ukraine, the Middle East and sub-Saharan Africa, while the Asia-pacific region seems to be split. They further go on to say that this can be attributed to the economic development of the nations. Badgett (2019), in his study of the relationship between LGBT inclusion and economic development, found both to be mutually reinforcing.

A closer look into how high-income and low-income countries perceive the importance of the legalization of SOGIE policies- it is seen that high-income countries tend to focus more on the inclusion of LGBT rights for higher, stronger economic performance. While low-income countries, on the other hand, tend to

focus on eradicating poverty, expanding gender equality and improving health incomes (Badgett et al., 2014). Using the above ideology by Badgett and looking at the Asian countries listed in Tables 2 and 3, there seems to be a partial conformation. For example, while Japan is listed as a high-income country and China has had a remarkable period of rapid growth, neither has any protection or recognition for SOGIE policies. On the other hand, Nepal, one of the poorest countries in Asia, provides legal protection.

Among the top ten high-income Asian countries in Table 2, Israel conforms to the ideology by being a high-income country and having recognition for same-sex marriages. Korea Republic and Taiwan are the two high-income countries with policies protecting SOGIE. The remaining seven countries fall under countries that either criminalize same-sex marriage or provide no protection. Among the top ten low-income Asian countries in table 3, excluding Nepal, none recognized or protected same-sex marriages.

Table 2: High-Income Asian Countries

Rank	Country	GDP/capita (USD)	Score	Muslim
1	Qatar	63,249	0	0.68
2	Singapore	57,714	0	0.14
3	U.A.E	40,699	0	0.77
4	Israel	40,544	3	0.19
5	Japan	38,430	1	0.00
6	Korea Republic	29,743	2	0.00
7	Korea	29,040	0	0.74
8	Brunei Darussalam	28,291	0	0.75
9	Taiwan	24,408	2	0.03
10	Bhutan	3,130	0	0.00
	Average	35,525	0.80	0

Source: The World Bank 2019

Table 3: Low-Income Asian Countries

Rank	Country	GDP/capita	Score	Muslim
33	Pakistan	1,548	0	0.96
34	Uzbekistan	1,534	0	0.97
35	Bangladesh	1,517	0	0.90
36	Cambodia	1,384	1	0.02
37	Myanmar	1,257	0	0.04
38	Kyrgyz Rep	1,220	1	0.88
39	Yemen Rep	1,107	0	0.99
40	Nepal	849	2	0.05
41	Tajikistan	801	1	0.97
42	Afghanistan	550	0	0.99
	Average	1,177	0.50	0.68

Source: The World Bank 2019

2.4. Gender empowerment and alliance with feminism and SOGIE legalization

Previous studies focusing on the failure of the legalization of homosexual marriage (Qiao, 2022; Ferguson, 2007; Valdes, 2013) mention the patriarchal system as a driving factor. According to Ferguson (2007), in the case of the US, the failure of the legalization of homosexuality has been attributed to the patriarchal concept of marriage. The same has been stated by Qiao (2022), who says that the voices of democrats in China supporting the legalization of homosexual marriage are being left unheard due to the prevalent patriarchal

system considering it to be non-traditional. With the belief that inequality between men and women is the root cause of homophobic and transphobic attitudes, Kushnarenko (2019) talks about how there is a connection between feminism and LGBT issues. In agreement with this, Ehrt (2019) states that this connection stems from feminist movements actively dismantling the belief that sex and gender should define our societal roles.

While feminist movements in Europe and the US demand a greater presence of women in company boardrooms, in Asia, these movements demand the representation of women in leadership roles (Khan and Goelnitz, 2020). Stressing the importance of equal participation and representation in political spheres, Clifton et al. state that it covers a broad range of issues, including political participation, parental equality, gender equality and prohibition of persecution of sexual and gender minorities. Looking into Table 4, which shows the proportion of female seats in a national parliament, there seems to have been a conformation between the feminist movements and women’s representation in the national parliaments, resulting in higher legalization scores. An example of this relationship is Taiwan and Nepal. Both countries provide legal protection for SOGI minorities and have a high female ratio in the national parliament (30% and above). In contrast, Japan is historically and culturally a patriarchy and the female ratio of the national parliament is only 10 percent resulting in no provisions for legal protections nor recognition for SOGI minorities. Another perspective could be the belief in the normality of a patriarchal family system, rendering any other family system unnatural or abnormal.

Table 4: Female seat ratio (non-Islam dominant countries)

GDP	Country	Female Ratio	Score	GDP	Country	Female Ratio	Score
1	Singapore	23.0	0	10	Bhutan	8.5	0
2	Israel	27.5	3	11	Philippines	29.5	1
3	Japan	10.1	1	12	Lao PDR	27.5	1
4	Korea Republic	17.0	2	13	Vietnam	26.7	1
5	Taiwan	38.1	2	14	Timor-Leste	33.8	2
6	China	24.9	1	15	India	11.8	1
7	Thailand	5.3	2	16	Cambodia	20.0	1
8	Sri Lanka	5.8	0	17	Myanmar	10.2	0
9	Mongolia	17.1	2	18	Nepal	32.7	2

Source: The World Bank (2019)

Table 5: Polity democracy index (non-Muslim countries)

GDP	Country	Democracy	Score
1	Singapore	-2.0	0
2	Israel	6.0	3
3	Japan	10.0	1
4	Korea Republic	9.0	2
5	Taiwan	10.0	2
6	China	-5.0	1
7	Thailand	6.0	2
8	Sri Lanka	6.0	0
9	Mongolia	10.0	2

Source: Cheibub (2010)

Notes: Indexes ranged from -10 to +10; a low Index indicated dictatorship

Such conformations between feminist movements and political representation can only be possible among democratic countries. Cheo (2014), in his theoretical framework, states that homosexuality was more likely to be illegal in countries that were less democratic with fewer women in the legislatures. Comparing the polity index of Asian countries in Table 5 with that of female representation in Table 4, this theory seems to be consistent with the case of Taiwan (polity score:10), the Korea Republic (9.0) and Israel (6.0). However, even though Japan's polity index was 10, indicating a strong democracy, its low female representation in the national parliament and historical and cultural background have resulted in low SOGIE legalization scores.

2.5. Nation's branding image and SOGIE legalization

An essential factor that Cheo mentions in his theoretical framework is how the want for global recognition can be a factor in the legality of SOGIE policies. A closer look into the history of Taiwan and Israel and their legalization of SOGIE policies, according to Shu-Ling (2014), China's replacement of Taiwan in the UN, leading to its ambiguous status in 1971, led to Taiwan's stand for democracy and human rights as a path to global recognition. Similarly, in the case of Israel, homosexual relations were legalized in 1988. However, Israel's strong records of freedom and protection for LGBTQ+ people have been found to be shallow by the Israeli society, who strongly feel that these admirable characteristics are just an attempt to cover up its policies towards Palestinians-accusations that can be seen to leverage age-old stereotypes of the Jewish being duplicitous, deceitful and

nefarious. However, when comparing this theory with Table 6, which displays the international visitor ratio to the general population of each country as a success of the nation’s branding image, Singapore seems to be an anomaly with having the highest Visitor ratio but the lowest SOGIE legalization score. According to Heng (2001), Singapore’s prohibition of homosexuality is deeply entrenched in its history of nation-building, in which homosexuality threatens the institution of the family.

Table 6: International Visitor to General Population among Asian countries

GDP rank	Country	Visitor Ratio	Legalization Score
1	Singapore	247.7	0
2	Israel	41.5	3
3	Japan	22.6	1
4	Korea Republic	25.9	2
5	Taiwan	45.6	2
6	China	4.4	1
7	Thailand	51.6	2
8	Sri Lanka	9.9	0
9	Mongolia	15.2	2

Source: The World Bank (2019)

3. Methodology

3.1. Analytical framework

To examine the factors considered by a country for the legalization of homosexuality, the following variables were chosen- legal protection score, GDP per capita, female seat ratio, polity democracy, international visitor ratio, religion and location. Figure 1 displays the analytical framework of the study.

Prior research pointed out that economic development is essential to promote human rights protection. Therefore, using the data from the International Lesbian, Gay, Trans and Intersex Association (ILGA, 2019) and World Bank (2019), each country’s legal protection score was calculated and the country’s GDP was extracted. Figure 2 shows the relationship between the GDP of a country and the legal protection score. From the figure, it can be deduced that while there may not be a clear relationship between the economic development of a country and the legalization of homosexuality, it may yet provide a partial explanation. It is

hence hypothesized that in countries where there is advanced economic development, more focus may be stressed on the protection and legalization of homosexuality.

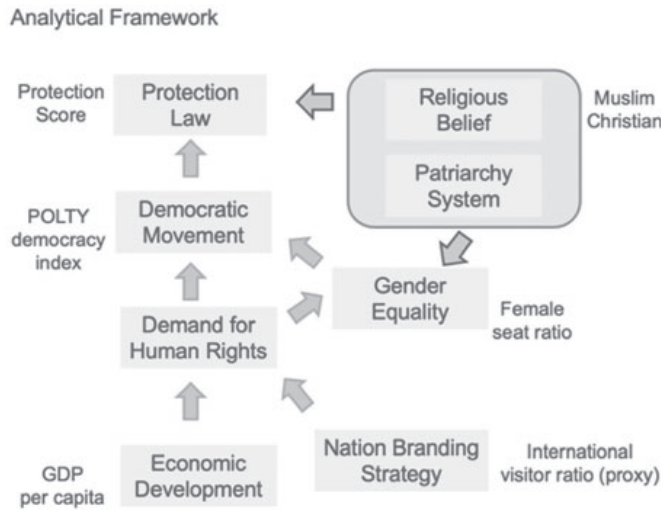


Figure 1: Analytical Framework of the Study

Source: Author's creation.

Previous studies discuss the closer relationship between gender inequality and SOGI protection and show a positive relationship between the female ratio in the national parliament and the level of sexual minorities' legal protection. Hence as a measure of gender equality in a society, it is hypothesized that an increased proportion of female seats in the decision-making systems of the country, the parliament, may promote the protection and legalization of the human rights of homosexuals. Data on each country's female seat ratio was extracted from the World Bank (2018).

According to a report by the Human Dignity Trust (2015), out of the fifty-seven countries surveyed that criminalized same-sex marriage, twenty-nine were authoritarian regimes and one was deemed a full democracy country. With the reasoning that a strong democratic foundation in a country is essential to promoting human rights (Hunter, 2017; Encarnacion, 2014), the variable polity was chosen as a factor stating the democracy score of a country. Therefore, it is hypothesized that the weaker the democracy it is most likely for homosexuality to be criminalized. Data regarding a country's polity score was extracted from Cheibub (2010).

The usage of queering in its nation branding strategy of Netherlands in the Eurovision song contest as a strategy to confirm their Europeaness (Borneman & Fowler, 1997) and Israel's usage of gay rights to mask the occupation of Palestine (Jackman & Upadhyay, 2014), displays the relationship between a nation's motive to promote a positive image of itself and the legalization of homosexuality. Hence to calculate the effect of a country using the nation branding strategy on the legalization and protection of homosexuality, a proxy variable of 'international visitor' was introduced. It is hypothesized that the higher the international visitor ratio, the more likely the nation holds a positive image. Data for the international visitor ratio was extracted from World Bank (2019).

Arguments in opposition to same-sex marriage are often made on religious grounds. A survey conducted by the Pew Research Center (2019) between religious-affiliated and religious-unaffiliated individuals and their views on homosexuality showed a positive relationship between religiously unaffiliated individuals and the legalization of homosexuality. Other studies (Franczak, 2014; Zaharin, 2022) have shown Christianity and Islam's negative association with individuals' attitudes toward homosexuality. Hence it was hypothesized that the views of an individual towards homosexuality were based on their religious beliefs, which in turn affects the promotion and legalization of homosexuality. Data regarding the religion was extracted from World Bank (2019).

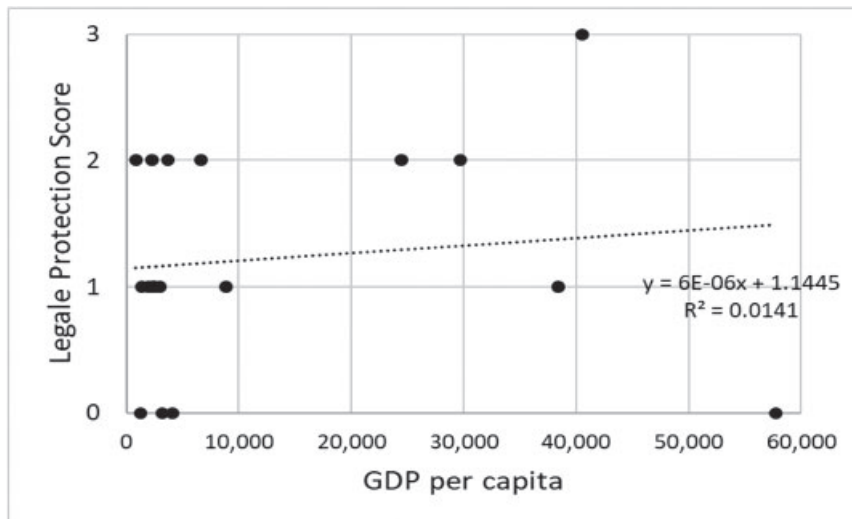


Figure 2: Relationship between GDP and Legal Protection Score

Source: Author's creation based on data from World Bank (2019) and ILGA (2019)

3.2. Dependent variables

Table 6 displays the legalization score for the countries in each continent. The legal protection score of a country was assigned between 0~3 based on a country's protection and recognition of homosexuality according to the statistics of the International Lesbian, Gay, Trans, and Intersex Association (ILGA 2019). The score 0 indicated that the country implemented capital punishment for homosexuality, 1 suggested that the country did not implement capital punishment nor does it legalize homosexuality, 2 suggested that the country protects the human rights of homosexual individuals. Lastly, a score of 3 suggested that the country recognizes and legalizes homosexuality.

Table 6: Legalization Score based on countries in each continent

Continents	Illegal	No protection	Protection	Recognition	Total
Africa	30	18	5	1	54
Asia	21	16	7	1	45
Europe	0	6	16	28	50
Latin America	8	10	8	7	33
North America	0	0	0	2	2
Oceania	4	7	2	2	15

Source: Author's classification based on data from ILGA (2019)

3.3. Estimation model

This study employed an ordered probit regression data analysis. The analysis was performed to identify factors that affect the legalization of SOGI policies in Asia (equation 1) and the world (equation 2).

$$Y_1 = \beta_{10} + \beta_{11} \text{GDP} + \beta_{12} \text{Female} + \beta_{13} \text{Democracy} + \beta_{14} \text{Visitor} + \beta_{15} \text{Religion} + \nu_1 \quad (1)$$

$$Y_2 = \beta_{20} + \beta_{21} \text{GDP} + \beta_{22} \text{Female} + \beta_{23} \text{Democracy} + \beta_{24} \text{Visitor} + \beta_{25} \text{Religion} + \beta_{26} \text{Continent} + \nu_2 \quad (2)$$

Data for the variables GDP per capita (GDP), female seats (Female) and international visitors (Visitor) were extracted from The World Bank (2019), while that of polity democracy (Democracy) was extracted from Cheibub (2010). As shown in Table 7, the variable GDP per capita was recorded as a unit of a thousand USD. The variable female seat was recorded as a proportion of seats females held in a country's national parliament. Polity democracy was recorded

following an index created by Cheibub (2010), where countries scored on five dimensions ranging from -10 to +10. Negative scores indicated the strength of dictatorship, while scores in positive indicated the strength of the democracy of a country. The variable international visitor was recorded as a ratio of international visitors to a country's total population. Religion was categorized as Islam, Christianity and other religions (reference variable). Each is recorded as a ratio to that of the total population. We also controlled for the continental regions: Europe and North America, Latin America, Oceania, Asia and Africa (reference variable).

Table 7: Descriptive Statistics

Variables	Unit	Obs	Average	SD
Dependent Variable				
Legal Protection Score	Scale (0~3)	199	1.29	1.12
Explanatory Variables				
GDP per capita	1000 USD	194	15.14	24.32
Female Seat	%	193	21.87	11.95
Polity Democracy	Index	162	4.29	6.15
International Visitor	%	185	1.13	3.55
Religion				
Christianity	Ratio	199	0.57	0.38
Islam	Ratio	199	0.25	0.37
Location				
Europe and North America	Dummy	199	0.26	0.44
Latin America	Dummy	199	0.17	0.37
Oceania	Dummy	199	0.08	0.26
Asia	Dummy	199	0.23	0.42

Source: Author's creation.

4. Results and discussion

4.1. Descriptive statistics

A total of 199 countries were considered for the study. However, with the data of countries for certain variables being unavailable, they were omitted, resulting in the data of 152 countries being considered. Table 7 shows the descriptive statistics for 199 countries. As shown in Table 7, the mean legal

protection score for 199 countries was 1.29 (SD=1.12, range=0~3), and the overall accuracy rate for legal protection score was 43% ($1.29/3*100$).

The average GDP per capita of 194 countries was recorded as 15.14. Of the 193 countries having female seats in the national parliament, the average proportion of female seats was 21.87%. The polity democracy average for 162 countries was recorded as 4.29. Regarding the international visitor ratio, the average for 185 countries was recorded as 1.1. For religion, the average for the variable Christianity was 0.57 and 0.20 for Islam as compared to other religions.

4.2. Estimation results

The legalization score for thirty-eight Asian countries and one hundred fifty-two countries in the World were logged for all variables, which are presented in Table 8. From the results, it can be deduced that for Asia, the female seat ratio was statistically significant at the 1% level ($\beta = 2.33$, $p < 0.01$), indicating that countries in Asia with a high proportion of female seats in the national parliament have a high legalization score for SOGIE policies. Furthermore, polity democracy for Asia was also significant at the 1% level ($\beta = 0.10$, $p < 0.01$), indicating a high legalization score for countries with a strong democracy index. Furthermore, international visitor to Asia was statistically significant at the 5% level ($\beta = 0.37$, $p < 0.05$), indicating that countries with strong tourism had a high legalization score for SOGIE policies. Finally, for religion, Islam was statistically significant for Asia at the 5% level ($\beta = -1.30$, $p < 0.05$), indicating a low legalization score for countries where Islam was the dominant religion.

Regarding the legalization score for SOGIE policy and the world, it was found that the GDP per capita was statistically significant at the 1% level ($\beta = 0.03$, $p < 0.01$), suggesting a high legalization score for SOGIE policies in countries where the GDP per capita is high. The female seat ratio was also statistically significant at the 1% level ($\beta = 0.03$, $p < 0.01$), suggesting a high legalization score for SOGIE policies among countries that provide a high proportion of female seats in the national parliament. Polity democracy was statistically significant at the 1% level ($\beta = 0.07$, $p < 0.01$), suggesting a high legalization score for SOGIE policies among countries with a stronger democracy index. For religion, both Christianity ($\beta = -0.88$, $p < 0.01$) and Islam ($\beta = -1.27$, $p < 0.01$) were found to be statistically significant, suggesting that compared to other religions, countries where the dominant religions were either Christianity or Islam, have low legalization scores for SOGIE policies. Among the continents in the world, Europe and North America ($\beta = 0.07$, $p < 0.01$), and Latin America ($\beta = 0.07$, $p < 0.01$) were

both statistically significant at the 1% level, suggesting that countries in these continents as compared to Africa had a high legalization score for SOGIE policies.

Table 8: Results of Ordered Probit Regression

	Asia		World	
	Coef	P-value	Coef	P-value
GDP per capita	-0.01	0.554	0.03	0.003***
Female Seat	0.09	0.002***	0.03	0.001***
Polity Democracy	0.10	0.007***	0.07	0.000***
International Visitor	0.37	0.049**	0.16	0.173
Religion				
Christianity	-1.22	0.221	-0.88	0.078*
Islam	-1.30	0.022**	-1.27	0.003***
Location				
Europe and North America			1.61	0.000***
Latin America			1.01	0.002***
Oceania			0.73	0.234
Asia			0.02	0.95
Number of observations	38		152	
Log Likelihood	-28.269		-134	
Pseudo R2	0.3327		0.361	

Source: Authors, 2022

Note: ***, **, * indicate significance levels of 1%, 5% and 10%

4.3. Discussion

Our findings indicate that countries with a high GDP per capita had a higher legalization score for SOGIE policies. According to Poushter and Kent (2020), people in wealthier and highly developed economies are more accepting of homosexuality than those in less affluent and developed economies. Examples are Sweden, the Netherlands and Germany, where the GDP per capita is over 50,000 USD and the acceptance of homosexuality is among the highest, in contrast to Nigeria, Kenya and Ukraine, where the GDP per capita is under 10,000 USD, and the acceptance of homosexuality is low. However, the same understanding cannot be applied to Asian countries. Table 2 and Table 3 show that the top three high GDP per capita countries- Qatar, Singapore and UAE- criminalize homosexuality. In contrast, on the other hand, even though Nepal ranks third from the bottom as the lowest Asian GDP per capita country, it yet has SOGIE policies that prevent

discrimination against the LGBT community. This finding is also consistent with that of Cheo (2014), who states that economic development has a positive impact on the legalization of homosexuality in the global context, but however the same cannot be applied to Asian countries, specifically- Hong Kong and Singapore.

Countries in Asia and around the world with a high proportion of female seats in the national parliament had a high legalization score for SOGIE policies. A global attitudes survey by the Pew Research Centre in 2019 found women to be significantly more accepting of homosexuality as compared to men. This finding is also consistent with that of Asian countries that support SOGIE policies and the existence of feminist movements that have led to the empowerment of women- examples being Taiwan (female seat proportion: 38.1%), Timor-Leste (female seat proportion: 33.8%) and Nepal (female seat proportion: 32.7%). On the global scale, among the countries with the highest percentage of women in society accepting homosexuality were Sweden, Netherlands, Spain, Germany and the UK. Sweden and Spain have a high female seat proportion of 46.99% and 44%, respectively (IPU, 2020).

The type of political regime of countries recorded by the variable 'polity democracy' was found to have a higher legalization score for SOGIE policies when the democracy index of the country was strong. According to the "Gay Friendliness Index," the nature of a political regime is a better predictor of gay rights than either economic development or cultural factors such as religion. This is consistent with our finding and a report by the Human Dignity Trust (2015), which states that the absence of political freedoms is a common reason for criminalizing private and consensual sexual conduct between adults of the same sex. Comparing this finding to Table 5, where countries having a democracy index of 5 and above -Mongolia, Taiwan, Israel, and the Korea Republic, had high legalization scores of SOGIE policies.

With a global perspective that gay-friendliness equates to a progressive, modern and tolerant society, countries having an objective of wanting to promote their nation's image, recorded through the variable 'international visitor,' were found to have a high legalization score for SOGIE policies. The finding indicates that higher the tourism in a country, suggesting strong efforts made by a country to promote itself globally, higher the legalization score of SOGIE policies. Homosexuality was more likely to be illegal among countries that were less exposed to or a part of the globalization process (Cheo, 2014). This variable was only significant in the case of Asia and not for the world, hence consistent with that of the legalization scores of countries like Israel and Taiwan in Table 1, as

these countries legalized SOGIE with the main motive of projecting a positive image and gaining recognition globally.

Countries where the dominant religions were Christianity and Islam were found to have low legalization scores for SOGIE policies. This finding is consistent with several previous studies (Anderson et al., 2008; Wagner et al., 1994). A survey conducted by the Pew Research Centre in 2019 found individuals who chose religion to not be so important in their life were more likely to say that homosexuality should be accepted than individuals who chose religion to be very important to them. Taking the example of Israel, the only Asian country that recognizes same-sex marriages, it was found that Israelis who say religion to not be important in their lives were almost three times more likely to accept homosexuality than those who say religion is very important.

Countries in Europe, North America and Latin America were found to have higher legalization scores than African countries. This finding is consistent with a report by Flores (2021) on the global acceptance index (GAI) of LGBTI people and rights among 175 countries. The report found a significant increase in the acceptance index in Brazil, Canada, Great Britain and the United States. Nepal was found to be the only Asian country among the top 20, with the highest GAI of 7.84. Even though some countries in Asia legalize SOGIE and provide protection for the LGBTI community, gaps in the implementation of these policies still pose a threat.

An interesting finding for legalization scores and the variables among Asian countries would be that of Japan. Even though Japan is ranked 5 (Table 2) among Asian countries with a strong GDP and ranked 3 in terms of female seat proportion in the national parliament (Table 4) as well as international visitor proportion (Table 6), a strong democracy index of 10 (Table 5) and neither Christianity nor Islam being a dominant religion of the region, it hasn't legalized SOGI policies. With a legalization score of 1, the non-legalization of SOGI policies in Japan may be attributed to the strong belief in the traditional and patriarchal concept of a family by the aging population of the society. Another factor could be the government's fear of its impact on the natality rate of the country, for which the government has been introducing a series of measures to encourage more births (CPI, 2017).

5. Conclusion

This study aimed to identify factors that affect SOGIE legalization in the world and Asia. Religious beliefs, gender equality and a nation's democratic conditions were important factors for SOGIE legalization and protection in the world and Asia. Looking closely into factors that affect SOGIE legalization in Asia, a nation's brand image was also found to be a contributing factor to the legalization of SOGIE policies. However, anomaly countries were found for each of the above- mentioned factors- Nepal, Singapore and Japan. While Nepal ranked low on the GDP per capita scale, it yet does provide legal protection; Singapore, on the other hand, ranked high on the GDP per capita scale but provided no legal protection, making the democratic condition of the country as the driving factor for non- legalization of SOGIE policies. Finally, looking at the case of Japan, even though it conformed well with the identified factors, no policies regarding SOGIE has been legalized. In light of this, more detailed research into the public's opinion and an Asian nation's stand on SOGIE policy legalization or provision for protection need to be addressed.

Notes

- ¹ SOGIE which stands for Sexual Orientation , gender Identity and expression is an inclusive term which applies to everyone, LGBT being a part of it as well.
- ² Pinkwashing is the strategy of promoting LGBT rights protections as evidence of liberalism and democracy, especially to distract from or legitimize violence against other countries or communities, often to improve a country's tarnished reputation.
- ³ The Kamasutra is an Asian Indian Sanskrit text on sexuality, eroticism and emotional fulfillment in life. It was written in the 2nd-3rd century CE by Vatsyayana Mailanaga.

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