



Civil society engagement with UN human rights mechanisms on sexual orientation, gender identity and expression, and sex characteristics (SOGIESC)

TIMOR-LESTE

ABOUT THE COUNTRY BRIEF

This country brief charts efforts by lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) activists to raise issues related to sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) within UN human rights mechanisms. This brief is based on a review of engagements with various mechanisms, including a desk review of civil society submissions and national-level discussions and individual interviews with activists and stakeholders. The discussions took place over the first half of 2016, with additional data gathered on review cycles. **The objective is to provide baseline information for LGBTIQ activists to help maximize their engagement with UN human rights mechanisms.**

UNIVERSAL PERIODIC REVIEW

1ST CYCLE (2011)

There were no references to SOGIESC issues in the first cycle review of Timor-Leste.

2ND CYCLE (2016)

During Timor-Leste's second cycle review, the joint stakeholder report by Kaleidoscope Human Rights Foundation (Kaleidoscope) and The Sexual Rights Initiative (SRI) provided information on the human rights of LGBTI persons in the country. The report recognized that, among other things, that "is the only country in South-East Asia to have signed the joint statement on "Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity" in March 2011. Given this, they recommended that the government "take the legal and practical measures necessary to meet the aspirations set out in the joint statement entitled "Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity" in order to address discrimination based on sexual orientation, gender identity and intersex status."¹

That said, the report also highlighted the following issues:

Lack of penalty enhancement under Article 52 of the Penal Code for crimes motivated by bias on the basis of gender identity or intersex status

Lack of laws prohibiting discrimination. In December 2001, the Constituent Assembly specifically voted against the inclusion of sexual orientation as a non-discrimination ground in Article 16(2) of the Constitution

Non-prohibition of discrimination against LGBTI people in employment

Lack of laws or policies that allow transgender persons to change the gender identity on identity cards and documents

The national report stated that it "recognizes other minority groups, especially groups with different sexual orientations such as lesbian, gay, bi-sexual and transgender (LGBT) in Timor-Leste." It cited the presence of the Coalition of Diversity and Advocacy (CODIVA), which works with various agencies on the issues of HIV and AIDS and human rights at both national and local levels.²

1 Kaleidoscope Australia Human Rights Foundation & The Sexual Rights Initiative, 2016. The Human Rights of LGBTI Persons in Timor-Leste: 26th session of the Universal Periodic Review. Retrieved from: https://www.upr-info.org/sites/default/files/document/timor-leste/session_26_-_november_2016/js3_upr26_tls_e_main.pdf
<http://www.sexualrightsinitiative.com/wp-content/uploads/Kaleidoscope-SRI-Joint-Submission-Timor-Leste-Oct-Nov-2016.pdf>.

2 UN Human Rights Council, 2016. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Timor-Leste, A/HRC/WG.6/26/TLS/1.

TREATY MONITORING BODIES

TIMOR-LESTE HAS RATIFIED THE FOLLOWING INTERNATIONAL HUMAN RIGHTS TREATIES:³

- 01 International Convention on the Elimination of All Forms of Racial Discrimination
- 02 International Covenant on Civil and Political Rights (with 2nd Optional Protocol)
- 03 International Covenant on Economic, Social and Cultural Rights
- 04 Convention on the Elimination of All Forms of Discrimination against Women (with Optional Protocol)
- 05 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- 06 Convention on the Rights of the Child (with Optional Protocols 1 & 2)
- 07 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

A coalition submission to CEDAW in 2015 noted that LGBTIQ persons in Timor-Leste, particularly transgender people, “are exposed to stigma and discrimination in different sectors including health, family, friends, general community, security, legal and education.”⁴ These issues were not addressed in the Committee’s Concluding Observations on Timor-Leste.⁵

3 UN Office of the High Commissioner for Human Rights, n.d. Ratification of 18 International Human Rights Treaties: Timor Leste. Retrieved from <http://indicators.ohchr.org/>

4 NGO Working Group of the CEDAW Shadow Report, 2015. NGO Shadow Report: Implementation of the Convention on the Elimination of All Form Discrimination Against Women (CEDAW) in Timor-Leste. Retrieved from: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TLS/INT_CEDAW_NGO_TLS_21963_E.pdf

5 UN Committee on the Elimination of All Forms of Discrimination against Women, 2015. Concluding observations on the combined second and third periodic reports of Timor-Leste, CEDAW/C/TLS/CO/2-3.

SPECIAL PROCEDURES

Timor-Leste has not issued a standing invitation to UN Special Procedures,⁶ but has accepted visits from a number of mandate holders over the years.⁷ However, there have been no references to SOGIESC issues in the country reports of Special Procedures on Timor-Leste.

OTHER POSITIONS AT THE UNITED NATIONS

Timor-Leste has consistently supported initiatives on these issues in the political bodies. It joined statements supportive of sexual orientation and gender identity at the UN General Assembly in 2008⁸ Human Rights Council in 2011.⁹ It voted in favour of including references to sexual orientation and gender identity in resolutions on extrajudicial executions at the General Assembly in 2010, 2012, and 2014.^{10,11,12} Finally, Timor-Leste co-sponsored the 2011 Human Rights Council resolution on “Human rights, sexual orientation and gender identity.”¹³

In December 2016, Timor-Leste voted in support of the mandate of the Independent Expert on Sexual Orientation and Gender Identity¹⁴ when it came under fire at UN General Assembly in December 2016.¹⁵

- 6 UN Office of the High Commissioner for Human Rights, n.d. Standing Invitations: Timor Leste. Retrieved from http://spinternetohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx.
- 7 UN Office of the High Commissioner for Human Rights, n.d. View Country visits of Special Procedures of the Human Rights Council since 1998: Timor-Leste. Retrieved from http://spinternetohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=TLS.
- 8 ARC International, 2008. Joint statement on human rights, sexual orientation and gender identity. Retrieved from: <http://arc-international.net/global-advocacy/sogi-statements/2008-joint-statement/>
- 9 ARC International, 2016. Joint statement: Ending acts of violence and related human rights violations based on sexual orientation and gender identity. Retrieved from: <http://arc-international.net/global-advocacy/human-rights-council/hrc16/joint-statement/>
- 10 UN General Assembly, 2010. 65th Session, 71st Plenary Meeting, A/65/PV.71.
- 11 UN General Assembly, 2012. “Amendment to draft resolution A/C.3/67/L.36” as contained in document L.68 (list of votes). Retrieved from http://www.un.org/en/ga/third/67/docs/voting_sheets/L68.pdf.
- 12 UN General Assembly, 2014. Amendment to draft resolution A/C.3/69/L.47/Rev.1, A/C.3/69/L/64. Retrieved from http://www.un.org/en/ga/third/69/docs/voting_sheets/L64.L47Rev1.pdf
- 13 UN Human Rights Council, 2012. Report of the Human Rights Council on its seventeenth session, A/HRC/17/2.
- 14 UN Human Rights Council, 2016. Resolution 32/2: Protection against violence and discrimination based on sexual orientation and gender identity, A/HRC/32/L.2/Rev.1.
- 15 APCOM, 2016. Another Victory of the UN Rejecting Another Effort to Suspend the Mandate of Independent Expert on Sexual Orientation and Gender Identity. Retrieved from: <https://apcom.org/2016/12/21/lgbtiq-regional-organizations-asia-pacific-welcome-decision-ungas-5th-committee-meeting-safeguard-mandate-independent-expert-sexual-orientation-gender-identity/>



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ASEAN SOGIE Caucus (ASC) is a regional organization of human rights defenders from various countries in Southeast Asia. ASC advocates for the promotion, protection and fulfilment of the rights of all persons regardless of their sexual orientation, gender identity and expression, and sex characteristics (SOGIESC). The organization aims to support capacities of local activists to engage with domestic and international human rights mechanisms. The organization envisions a SOGIESC-inclusive Southeast Asian community, and advocates for the human rights of all persons regardless of SOGIESC to be respected, protected, promoted, and fulfilled.

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