

# Fact Sheet

## Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) and the UN Human Rights Mechanisms in Southeast Asia (2017-2020)



**ASEAN SOGIE  
CAUCUS**



# Fact Sheet

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**CITATION:** ASEAN SOGIE Caucus (2021). Fact Sheet: Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) and the UN Human Rights Mechanisms in Southeast Asia (2017-2020).



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**ASEAN SOGIE Caucus (ASC)** is regional human rights organization that dynamically engages diverse actors to collectively advocate for the human rights of lesbian, gay, bisexual, transgender, intersex, queer people, and gender-diverse persons in Southeast Asia. Its mission is to empower, develop capacities, and expand spaces for leadership of LGBTIQ and genderdiverse persons in defending their human rights.

ASC is legally registered as a non-stock and non-profit organization in the Philippines under the name Southeast Asia Sexual Orientation, Gender Identity and Expression Caucus (ASC), Inc.



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## INTRODUCTION

This fact sheet provides updated information on engagements 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 fact sheet covers the period of 2017-2020 and builds on our previous publication **Civil society engagement with the UN human rights mechanisms on sexual orientation, gender identity & expression, and sex characteristics (SOGIESC) in Southeast Asia**<sup>1</sup>, which reviewed such engagements until 2016. Additionally, this fact sheet provides additional analysis on trends, themes, and gaps in how LGBTIQ people's human rights issues have so far been tackled within these mechanisms. The first edition of **The Rainbow in Context: An Overview of the Situation of Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) Persons in Southeast Asia**<sup>2</sup> provided further insight, showing how SOGIESC was addressed by ASEAN member-states within international human rights mechanisms. Examples include the Malaysian government's defense of actions to suppress the Seksualiti Merdeka festival in 2012 on the grounds of managing a serious security risk, and the Singapore government's defense of its suppression of a human rights activist on the basis of "safeguarding society's confidence in the administration of justice and the judiciary." In general, how ASEAN governments positioned themselves on LGBTIQ people's human rights in three ways: to be affirmative as a convenient means of improving an otherwise poor human rights record when LGBTIQ issues are not considered "sensitive" politically (e.g. Vietnam, Thailand, Cambodia); to claim misrepresentation of the "true situation" (e.g. Indonesia), foreign interference (e.g. Myanmar), cultural norms (e.g. Malaysia, Brunei), and management of the domestic sensitivities (e.g. Singapore); or to be non-committal through abstaining from votes (e.g. Lao PDR) or vague and misleading referrals to domestic initiatives (e.g. Philippines).

Social and cultural prejudices exist which uniquely disempower and oppress sexual and gender diversity, and these experiences are familiar to broader ASEAN civil society actors engaged in their respective human rights battles. LGBTIQ activists likewise share with broader civil society the experiences of censorship, harassment, misinformation, and state-led propaganda that form the core of governments' assaults on all human rights advocacy. But because there is no clear interface between ASEAN mechanisms and UN mechanisms, especially when dealing with LGBTIQ people's human rights, LGBTIQ advocates have the strategic role to create or hold spaces in these platforms through dialogues, submissions, and other advocacy engagements. This fact sheet is intended to help civil society actors, human rights defenders, and other stakeholders by providing updated information which can serve as a baseline for monitoring the actions of ASEAN member-states and ASEAN mechanisms.

The objectives of this fact sheet are:

- To provide baseline information for Southeast Asian LGBTIQ activists to help maximize their engagement with UN human rights mechanisms;
- To describe the scope of UN human rights mechanisms' work in addressing SOGIESC issues in Southeast Asia; and
- To scan the range of issues raised by and addressed by UN human rights mechanisms, as articulated by activists and human rights defenders.

## TREATY BODIES AND SOGIESC

The **Treaty Bodies**<sup>3</sup> are instruments which specify the core human rights obligations of states under international law. These are overseen by committees who monitor the implementation of these treaties by states who have ratified them. There are currently nine (9) treaty bodies, and these are in place to ensure that fundamental human rights are promoted and protected, and that the particulars of such rights under various circumstances are articulated. Other treaty bodies have **Optional Protocols (OP)**<sup>4</sup> which provide additional procedures to support the implementation of specific issues within these instruments (e.g. the OP under CEDAW creating an inquiry procedure allowing independent experts to conduct investigations; the OP under the CRC addressing the involvement of children in armed conflict). Importantly, SOGIESC have been articulated as integral to understanding and implementing international human rights law under these treaties, such as through the **General Recommendations/Comments**<sup>5</sup> (e.g. General Recommendation 28 of CEDAW published in 2010 which includes SOGIESC in its definition of intersectionality) or the Concluding Observations of treaty bodies during the reporting of states.<sup>6</sup>

Engagement with the treaty bodies by LGBTIQ activists is important for at least two reasons. First, such treaties are binding to states who have ratified them, and governments have a continuing obligation to meet the standards set by them. Of these treaties, the **Convention to End Discrimination Against Women (CEDAW)**<sup>7</sup> and the **Convention of the Rights of the Child (CRC)**<sup>8</sup> are most strategic as they have been ratified by all ASEAN member-states (with the exception of Brunei, which has not ratified the CRC) and have been heavily referenced in the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC).<sup>9</sup> Second, the current mandates of the regional human rights mechanisms do not allow for independent monitoring and reporting of human rights issues. After a decade of AICHR's Term of Reference, which set out its original mandates and functions, a new protocol to formally acknowledge communications was agreed upon which would allow complaints on human rights violations to be submitted to each country's representative. This new protocol was agreed at the AICHR's Special Meeting in November 2019, but unfortunately, no official document was made public regarding this agreement or its process.<sup>10</sup> Additionally, principles of non-interference and consensus, coupled with AICHR's general inability to act independently of ASEAN member-states, further limit these mechanisms from taking any substantial action. These issues severely limit the capacity of AICHR and ACWC to address human rights violations in the region. Because of this, treaty bodies play an even greater role in ensuring that international human rights norms and standards are followed and governments are made accountable when ASEAN's own mechanisms fail to ensure accountability.

**TABLE 1**  
**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
Cambodia	CRC	Combined 4th, 5th, and 6th Periodic Reports  <i>Ongoing</i>	<p><b><u>State report</u></b>  <i>The state report has not yet been published as of this writing (23 June 2021).</i></p> <p><b><u>Committee Meetings</u></b>            The Committee made references to SOGIESC regarding:           <ul style="list-style-type: none"> <li>• Measures taken to “eliminate discrimination” against children, including LGBTI children.</li> </ul>   <i>The government’s reply to the List of Issues and other documents have not yet been published as of this writing (22 June 2021).</i>   <i>(CRC/C/KHM/Q/4-6)</i></p> <p><b><u>Civil Society Submissions</u></b>            No references to SOGIESC were made in any submission.</p>	<i>Reporting is still ongoing as of this writing (22 June 2021).</i>
	ICCPR	3rd Periodic Report  <i>Ongoing</i>	<p><b><u>State report</u></b>  <i>No references to SOGIESC were made.</i></p> <p><b><u>Committee Meetings</u></b>            The Committee made references to SOGIESC regarding:           <ul style="list-style-type: none"> <li>• Measures taken to “combat discriminatory laws and social practices” based on different characteristics, including sexual orientation and gender identity. The Cambodia government replied that efforts are being made to ensure “promoting gender equality and equity” (e.g. abolition of the Women’s Code of Conduct), including addressing social norms discrimination on the basis of gender identity. It also replied that the government “has not intended to separately develop a</li> </ul> </p>	<i>Reporting is still ongoing as of this writing (22 June 2021).</i>



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			<p>comprehensive anti-discrimination law yet”, explaining that the existing Criminal Code already contains anti-discrimination provisions.</p> <p><i>(CCPR/C/KHM/Q/3; CCPR/C/KHM/RQ/3)</i></p> <p><b>Civil Society Submissions</b>            No references to SOGIESC were made in any submission.</p>	
<b>Indonesia</b>	ICCPR	2nd Periodic Report  <i>Ongoing</i>	<p><b>State report</b>  <i>The state report has not yet been published as of this writing (23 June 2021).</i></p> <p><b>Committee Meetings</b>            The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>• Efforts to ensure respect of freedom of expression, specifically regarding “increasing constraints on opinions expressed in the context of academic debates, political engagement or similar activity”, include issues on LGBTI people’s rights.</li> </ul> <p>The government’s reply to the List of Issues and other documents have not yet been published as of this writing (23 June 2021).</p> <p><i>(CCPR/C/IDN/QPR/2)</i></p> <p><b>Civil Society Submissions</b>  <i>No civil society submissions have been published as of this writing (22 June 2021).</i></p>	<i>Reporting is still ongoing as of this writing (22 June 2021).</i>

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**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
Laos	ICCPR	1st Periodic Report  2018	<p><b>State report</b>            No references to SOGIESC were made.</p> <p><b>Committee Meetings</b>            The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>• A question on steps taken “to adopt comprehensive anti-discrimination legislation” which included sexual orientation and gender identity as prohibited grounds for discrimination. The Lao government replied that “prohibited grounds for discrimination based on race, color, sex, political and other opinion” are reflected in its existing laws, and that a Law on Gender Equality was currently being drafted for the intention of “creating opportunities for both genders to enjoy their rights in all areas.”</li> <li>• A concern that “there was also no explicit prohibition of discrimination on grounds of sexual orientation and gender identity”, and a question for any information regarding discrimination against vulnerable groups. The Lao government replied that “all citizens were considered equal under articles 35 and 37 of the Constitution” and that “the Government attached great importance to promoting and protecting the human rights of all individuals, including those with different sexual orientations.” The Lao government also explained that “national laws approached the concept of non-discrimination from different angles depending on their scope and substance,” but that “no definitive conclusion had been reached” in the debate on the need for a comprehensive anti-discrimination law.</li> <li>• Concerns that “the current legal framework does not afford comprehensive protection against discrimination on all the grounds prohibited under the Covenant,” which included sexual orientation and gender identity.</li> </ul>	<p>One (1) recommendation was made during the Concluding Observations:</p> <ul style="list-style-type: none"> <li>• To “take measures, including considering adopting a comprehensive anti-discrimination law, to ensure that the relevant legal framework provides adequate and effective substantive and procedural protection against all forms of discrimination, including in the private sphere, on all the prohibited grounds under the Covenant,” which includes sexual orientation and gender identity.</li> </ul> <p>No follow-up information has been submitted as of this writing (22 June 2021).</p> <p><i>(CCPR/C/LAO/CO/1)</i></p>

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**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
			<p><i>(CCPR/C/SR.3504; CCPR/C/LAO/CO/1)</i></p> <p><b>Civil Society Submissions</b>            No references to SOGIESC were made in any submission.</p>	
Malaysia	CEDAW	Combined 3 <sup>rd</sup> , 4 <sup>th</sup> , and 5 <sup>th</sup> Periodic Reports  2018	<p><b>State report</b>            No references to SOGIESC were made.</p> <p><b>Committee Meetings</b>            The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>• A concern based on information received that LGBTI women experienced “arbitrary arrests, violence, including sexual violence, murder, harassment and torture, as well as discrimination in education, employment, health care and access to justice,” and a question on measures taken to address this, including the revisions of discriminatory laws and policies such as those promoting “rehabilitation” or “cures” for LGBTI women. The Malaysian government replied that it “stands by the Beijing Declaration and Platform for Action 1995 on the issue of gender”. [1] They also stated that the government did not recognize LGBTI women as “individual classes or group classes” but they reiterated that “should any person be discriminated against under the rules, practices and norms of the law then the Government would not hesitate to act”.</li> <li>• Concerns regarding the “bullying of students”, including LGBTI students.</li> </ul>	Four (4) recommendations were made with references to SOGIESC: <ul style="list-style-type: none"> <li>• To “adopt anti-bullying policies based on alternative strategies, such as counselling services and positive discipline, and undertake awareness-raising measures to foster equal rights” for LGBTI students;</li> <li>• To amend laws discriminating against LGBTI women;</li> <li>• To “apply a policy of zero tolerance with regard to discrimination and violence” against LGBTI women, “including by prosecuting and adequately punishing perpetrators”; and</li> <li>• To “expedite measures to discontinue all policies and activities aimed at “correcting” or “rehabilitating” LGBTI women.</li> </ul>

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**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
			<ul style="list-style-type: none"> <li>• Concerns regarding reports of harassment and attacks against LGBTI women by state actors, including “police, members of religious institutions and private citizens”.</li> <li>• Concerns regarding persons advocating for the human rights of LGBTI women being “subjected to arbitrary arrest, harassment and intimidation by State authorities and members of religious institutions, including through the adoption of fatwas against women’s organizations.”</li> <li>• Comments that LBT women were “unlikely” to report experiences of discrimination to authorities” and that “it was unclear” how the Malaysian government could claim LGBTI women “were treated on an equal basis with other persons if, as was the case, certain homosexual acts constituted criminal offences.” These comments were unanswered.</li> <li>• A question concerning plans “to halt the implementation of the 2017–2021 action plan to address social ills”, which aimed to “correct and rehabilitate” LBT persons. This question was unanswered.</li> </ul> <p>[1] <i>It is important to note that Annex IV of the adopted document of the 1995 Beijing Platform of Action provides that “the word “gender” had been commonly used and understood in its ordinary, generally accepted usage in numerous other United Nations forums and conferences” and that “there was no indication that any new meaning or connotation of the term, different from accepted prior usage, was intended in the Platform for Action”.</i></p> <p><i>(CEDAW/C/MYS/Q/3-5; CEDAW/C/MYS/Q/3-5/Add.1; CEDAW/C/MYS/CO/3-5)</i></p>	<p>The most recent follow-up submitted by Malaysia (2021) did not include updates with reference to SOGIESC.</p> <p><i>(CEDAW/C/MYS/CO/3-5; CEDAW/C/MYS/FCO/3-5)</i></p>

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			<p><b><u>Civil Society Submissions</u></b>  Two (2) civil society submissions and one (1) submission by the national human rights institution made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li>• <b>Violence and discrimination against LBTQ women</b>, such as media guidelines requiring LBTQ characters “to either repent, die or be punished at the end of any film”; attacks on LBTQ activists; discrimination in accessing healthcare, housing, education, and employment; and discrimination in accessing public facilities such as toilets.</li> <li>• <b>Discrimination in laws and policies</b>, such as criminalization of same-sex sexual relations and gender-diverse identities, including syariah law prohibitions against “cross-dressing” and “men posing as women”; and the lack of redress for experiences of violence on the basis of SOGIESC.</li> <li>• <b>State-sponsored violence and discrimination against LBTQ women</b>, such as cruel and degrading punishment such as whipping for “<i>musahaqah</i> (lesbianism)”; government programs which “aims to rehabilitate and bring trans women back to the ‘right path’ or ‘original state’”; forcing transgender students to “attend camps to ‘convert’ them to conform to gender stereotypes”; violent and arbitrary arrests, including extortion of money and sex.</li> </ul> <p><i>(WAO and JAG; SUHAKAM; HRW)</i></p>	

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Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
Philippines	CRC	Combined 5th to 6th Periodic Report  <i>Ongoing</i>	<p><b>State report</b>            One (1) reference to SOGIESC was made:</p> <ul style="list-style-type: none"> <li>The designation of the Commission of Human Rights as the Gender Ombud whose roles cover the issues of “persons of diverse sexual orientation and gender identity or expression”.</li> </ul> <p><i>(CRC/C/PHL/5-6)</i></p> <p><b>Committee Meetings</b>            The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>Measures taken to prevent and address discrimination, including against LGBT children.</li> </ul> <p><i>(CRC/C/PHL/Q/5-6)</i></p> <p><b>Civil Society Submissions</b>            As of this writing (22 June 2021), two (2) civil society submission made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li><b>General experiences of discrimination against LGBTIQ children.</b></li> <li><b>Violence and discrimination against LGBTIQ children,</b> such as harassment and abuse in the family</li> </ul> <p><i>(Children’s NGO Network; CRC Coalition)</i></p>	<i>Reporting is still ongoing as of this writing (22 June 2021).</i>
Singapore	CEDAW	5th Periodic Report  2017	<p><b>State report</b>            No references to SOGIESC were made.</p> <p><b>Committee Meetings</b>            During the Committee meetings, the Singaporean government made references to SOGIESC regarding:</p>	One (1) recommendation was made during the Concluding Observations: <ul style="list-style-type: none"> <li>To “ensure that lesbians, bisexual and transgender women and intersex persons are effectively protected against all forms of discrimination in law and in</li> </ul>

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**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
			<ul style="list-style-type: none"> <li>• How it was not the government’s role “to spearhead policy changes related to contentious issues that could have a polarizing effect on Singaporean society” but that the government would “continue to engage in dialogue on the issue of the rights of sexual minorities”.</li> </ul> <p>The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>• Referring to the previous periodic report, “whether a comprehensive strategy to modify or eliminate patriarchal attitudes and stereotypes that discriminate against women, including those based on sexual orientation and gender identity, has been adopted”. The Singaporean government replied that it has “publicly communicated that it protects all Singaporeans from the threat of violence, regardless of sexual orientation”.</li> <li>• Concerns that LBT women and intersex persons “face discrimination in various areas of life and that their situation is often exacerbated by the policies of the State party”.</li> <li>• A question regarding how sexual minority women’s rights were protected, given court decisions referring to Sec. 377A of the Penal Code which appeared to imply that the non-discrimination rule did not apply to sexual minorities. The Singapore government replied that article 12(1) “applied to everyone, regardless of gender, sexual orientation or gender identity” but that the “constitutionality” of Section 377A was “upheld”.</li> <li>• A question regarding prohibitions made on non-heterosexual relationships being portrayed positively in media. The Singapore government replied that the government has “moved away from outright censorship in favour of a classification system under which only content labelled as</li> </ul>	<p>practice, including by undertaking educational and awareness-raising campaigns to combat discriminatory stereotypes, including in its media policies.”</p> <p>The most recent follow-up submitted by Singapore (2019) did not include updates with reference to SOGIESC.</p> <p><i>(CEDAW/C/SGP/CO/5; CEDAW/C/SGP/FCO/5)</i></p>

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Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
			<p>“adult” was restricted,” so as to “prevent children from viewing inappropriate content while giving adults the choice to view such content if they so desired”.</p> <ul style="list-style-type: none"> <li>• A question on measures to improve citizens’ residence status in relation to certain domestic policies, regardless of sexual orientation and gender identity. The Singapore government replied that “the income tax policy had been designed to promote parenthood within marriage, which was the prevailing social norm valued by Singaporean society” and so “there were therefore no plans to extend the benefits available to married parents to those who were unmarried”.</li> <li>• A question on how the government “intended to treat non-marital sex and same-sex activity as neutral personal choices” in the context of sex education.</li> <li>• A question on measures taken “to enhance the sensitivity” of healthcare providers in treating LBT women. The Singapore government replied only that LBT women enjoyed equal access.</li> <li>• A question regarding what measures were being taken to ensure the rights of LBTI women in Singapore, given struggles of LGBTIQ organizations to be legally registered. This question was unanswered.</li> </ul> <p><i>(CEDAW/C/SGP/Q/5; CEDAW/C/SGP/Q/5/Add.1; CEDAW/C/SR.1534; CEDAW/C/SR.1535)</i></p> <p><b>Civil Society Submissions</b></p> <p>Three (3) civil society submissions made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li>• <b>Discrimination against LBTQ women</b>, such as difficulty accessing employment; lack of inclusive policies which account for unpaid care work; lack of sensitization of</li> </ul>	



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			<p>government personnel; collaborations of government ministries with known anti-LGBT groups; negative information on non-heterosexual relationships promoted in public education; unequal access to healthcare financing; and lack of training for addressing LGBTQ children in school counselling services.</p> <ul style="list-style-type: none"> <li>• <b>Violence and abuse of LGBTQ women</b>, such as “corrective sexual violence”, physical and emotional abuse by family and peers; bullying in schools; and abusive treatment of sex workers.</li> <li>• <b>Legal and policy prohibitions against LGBTQ women</b>, such as censorship of positive depictions of LGBTIQ people in broadcast and print media; non-inclusion of transgender women in the definition of “gender” of the Tripartite Alliance for Fair Employment Practices (TAFEP); the retainment of Sec. 377A of the Penal Code (amended 2019) which “cascades and justifies institutionalised discrimination”; and the lack of specific anti-discrimination legislation.</li> </ul> <p><i>(Sayoni and ASC; Many Voices One Movement; Project X)</i></p>	
	CRC	<p>Combined 4th and 5th Periodic Report</p> <p>2019</p>	<p><b><u>State report</u></b>            No references to SOGIESC were made.</p> <p><b><u>Committee Meetings</u></b>            The Committee made no references to SOGIESC in its list of issues and meetings.</p> <p><b><u>Civil Society Submissions</u></b>            One (1) civil society submission made references to SOGIESC concerning:</p>	<p>Three (3) recommendation were made during the Concluding Observations:</p> <ul style="list-style-type: none"> <li>• To “adopt a proactive and comprehensive strategy containing specific and well-targeted actions, including affirmative social actions, to eliminate discrimination against children in marginalized or vulnerable situations”, including LGBTI children.</li> </ul>

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Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
			<ul style="list-style-type: none"> <li>• <b>Issues faced by children of same-sex partners</b>, such as the impact on the child’s citizenship rights and lack of benefits and tax breaks because of non-recognition of their parents’ partnership.</li> <li>• <b>Domestic abuse experienced by LGBTIQ children</b>, such as various forms of physical and emotional violence, instances of “conversion therapy”, and deprivation of different needs.</li> <li>• <b>Obstructions to accessing child protection services</b>, such as the culture of stigma and victim-shaming, the risk of being outed, the risk of “retraumatization”, and the lack of specific resources and sensitization training for providing LGBTIQ-affirmative services for children.</li> <li>• <b>Barriers to healthcare for transgender children</b>, such as the restrictive requirements for transgender (e.g. hormone replacement therapy), lack of legal gender recognition, and lack of subsidization by national health insurance and social security).</li> <li>• <b>Mental health challenges of LGBTIQ children</b>, such as fear of seeking help due to stigma, the danger of exacerbating violence and discrimination at home due to requirement of healthcare providers to contact parents before providing treatment, dismissal or overlooking of LGBTIQ children’s mental health issues, and lack of LGBTIQ-affirmative mental healthcare.</li> <li>• <b>Discrimination in education</b>, such as bullying and harassment by peers, teachers, and other school officials; the policing of gender expression and other behaviors (e.g. separating same-sex partners); involuntary disclosure of SOGIESC to parents and peers; and the teaching of homosexuality as “unnatural, immoral, illegal or predatory”.</li> </ul> <p><i>(Sayoni)</i></p>	<ul style="list-style-type: none"> <li>• To “combat discrimination” against LGBTI children, including through decriminalization of same-sex sexual relations, “awareness-raising and educational activities”, and sensitivity training for relevant professionals “so that children are encouraged to report cases of discrimination and violence and reported cases are promptly and appropriately addressed”.</li> <li>• To “adopt a comprehensive sexual and reproductive health policy for adolescents” which “does not discriminate” against LGBTI children.</li> </ul> <p>No follow-up information has been submitted by Singapore as of this writing.</p> <p><i>(CRC/C/SGP/CO/4-5)</i></p>

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**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
Thailand	CEDAW	Combined 6 <sup>th</sup> and 7th Periodic Report  2017	<p><b><u>State report</u></b>            No references to SOGIESC were made.</p> <p><b><u>Committee Meetings</u></b>            The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>• A question concerning measures being taken regarding measures taken to address discrimination against women of “disadvantaged groups,” including LGBTI women. The Thai government replied that protection of LGBTI women was also stipulated in the Gender Equality Act of 2015 and that “people who faced discrimination may file petition to the committee under the Act”.</li> <li>• Concerns that human rights defenders, including LBT women, “have increasingly become targets” of various forms of violence, harassment, and abuse.</li> </ul> <p><i>(CEDAW/C/THA/Q/6-7; CEDAW/C/THA/Q/6-7/Add.1; CEDAW/C/THA/CO/6-7)</i></p> <p><b><u>Civil Society Submissions</u></b>            Two (2) civil society submissions made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li>• <b>Discrimination against LBTQ women</b>, such as discrimination of LBTQ women in the Deep South [1]; the proliferation of hate speech and threats of sexual violence; derogatory representation in mass media; prejudice against transgender women, sex workers, and women with HIV; barriers to accessing employment and education, including some schools requiring students to be “real men and real women (no deviant sexual behaviors)”;</li> </ul>	<p>One (1) recommendation was made during the Concluding Observations:</p> <ul style="list-style-type: none"> <li>• To “adopt and implement, without delay, effective measures for the protection of women human rights defenders,” including LBT women human rights defenders, “to enable them to freely undertake their important work without fear or threat of lawsuits, harassment, violence or intimidation”.</li> </ul> <p>The most recent follow-up submitted by Thailand (2020) did not include updates with reference to SOGIESC.</p> <p><i>(CEDAW/C/THA/CO/6-7; CEDAW/C/THA/FCO/6-7)</i></p>

**TABLE 1**  
**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
			<ul style="list-style-type: none"> <li>• <b>Violence and abuse</b>, including incidents of assault and rape; forced marriages; police exploitation specifically targeting transgender women; harassment and intimidation of LBTQ human rights defenders by military forces;</li> <li>• <b>Lack of legal protections</b>, such as lack of legal remedies for experiences of cyber-crimes; non-recognition in same-sex relationships resulting in delays in the provision of healthcare for injured partners; and “reservations” on the basis of religion and national security in the non-discrimination provisions of the Gender Equality Act of 2015; and the absence of legal gender recognition.</li> <li>• <b>The impact of the 2014 military coup on democracy and gender equality.</b></li> </ul> <p><i>(CCF et al.; TEA Group)</i></p> <p><b>[1]</b> “Deep South” refers to four provinces (Songkhla, Pattani, Yala, and Narathiwat) that comprise Thailand’s southern-most Malay-Muslim majority provinces. It is currently embroiled in what’s called the “South Thailand insurgency” (Thai: ความไม่สงบในชายแดนภาคใต้ของประเทศไทย), a complex and long-lived separatist insurgency whose modern iteration has been ongoing since 2004.</p>	
<b>Timor-Leste</b>	CAT	1st Periodic Report  2017	<p><b>State report</b> No references to SOGIESC were made.</p> <p><b>Committee Meetings</b> During the Committee meetings, the Timor Leste government made references to SOGIESC regarding:</p>	<p>One (1) recommendation was made during the Concluding Observations:</p> <ul style="list-style-type: none"> <li>• To take “effective measures to prevent violence based on real or perceived sexual orientation or gender identity and ensure that all acts of violence are investigated</li> </ul>

**TABLE 1**  
**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
			<ul style="list-style-type: none"> <li>• How LGBTIQ people “enjoyed the same rights and opportunities to access government services as other citizens” and that the Prime Minister had publicly called for LGBTIQ people to be accepted and respected.</li> <li>• Cases of violence against LGBTIQ people occurring, which have not been formally lodged with the national police but which the government condemns.</li> </ul> <p>The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>• A question concerning measures being taken” to train law enforcement and other public officials in order to prevent such violence and discrimination and to encourage victims to seek assistance from the authorities”. Information regarding “accountability for discrimination against LGBT persons” was also requested. The Timorese government replied that there was no discrimination against LGBTIQ persons, “who were afforded respect and accepted as part of society”, but admitted that there was “no specific mechanism to handle cases of discrimination”.</li> <li>• Concerns regarding reports of LGBTIQ people “subjected to physical maltreatment”.</li> </ul> <p><i>(CAT/C/SR.1594; CAT/C/SR.1597; CAT/C/TLS/CO/1)</i></p> <p><b>Civil Society Submissions</b></p> <p>One (1) civil society submission made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li>• <b>Discrimination against LGBTIQ people</b>, such as “perceived bias in policing”, physical and verbal maltreatment, and experiences of being refused or being given poorer quality healthcare services.</li> </ul> <p><i>(Timor-Leste NGO Coalition on CAT)</i></p>	<p>and prosecuted promptly, effectively and impartially, perpetrators brought to justice and victims provided with redress”.</p> <p>The most recent follow-up submitted by Timor-Leste (2019) did not include updates on this recommendation.</p> <p><i>(CAT/C/TLS/CO/1; CAT/C/TLS/CO/1/Add.1)</i></p>

**TABLE 1**  
**Treaty Body Reports by ASEAN Member-States where SOGIESC was included**

Country	Treaty Body	Reporting Period	Issues Raised	Concluding Observations
Vietnam	CAT	1st Periodic Report (2018)	<p><b><u>State report</u></b>            One (1) reference to SOGIESC was made:</p> <ul style="list-style-type: none"> <li>• Statement on how the Law on Execution of Temporary Custody and Detention of 2015 provides for the use of separate cells for particular groups, including gay, lesbian, and transgender persons.</li> </ul> <p>(CAT/C/VNM/CO/R.1)</p> <p><b><u>Committee Meetings</u></b>            The Committee made references to SOGIESC regarding:</p> <ul style="list-style-type: none"> <li>• A concern regarding the use of separate cells for gay, lesbian, and transgender persons that “it was unclear who determined the sexual orientation of persons deprived of their liberty, how they did so and with whom they shared the information.” The Vietnamese government stated only that “all places of detention observed standards designed to protect the life and health of detainees.”</li> </ul> <p>(CAT/C/SR.1685; CAT/C/SR.1688)</p> <p><b><u>Civil Society Submissions</u></b>            No references to SOGIESC were made in any submission.</p>	<p>No recommendation was made with reference to SOGIESC.</p> <p>(CAT/C/VNM/CO/1)</p>

## ANALYSIS

### Notable developments

Laos and Timor-Leste received their first-ever input on SOGIESC from treaty bodies: the first report of Laos to ICCPR, which raised the need for anti-discrimination legislation inclusive of sexual orientation and gender identity during both the Committee hearings and a recommendation concerning SOGIESC in their Concluding Observations; and the first report of Timor-Leste to CAT, which raised the need to address violence on the basis of sexual orientation and gender identity. Malaysia received vastly more comprehensive input from a treaty body — in comparison with the only other treaty body report with such references, the CRC in 2007 — during its combined third to fifth reports to the CEDAW. For Singapore and Thailand, engagement on LGBTIQ issues remains consistent, with civil society contributing comprehensive information on violence and discrimination during Singapore's fifth report to CEDAW in 2017 as in the fourth report to CEDAW in 2012; and during Thailand's combined sixth to seventh report to CEDAW in 2017 as in their second report to the ICCPR in 2012. And although the Committee hearings did raise a concern regarding sexual orientation and gender identity in Vietnam's first report to CAT, it did not provide any recommendations concerning SOGIESC in its Concluding Observations, similar to the lack of recommendations in its combined sixth and seventh report to CEDAW in 2015. But overall, there has been a very significant increase in the visibility of LGBTIQ people's issues in the work of treaty bodies during this period compared to those in preceding years.

### Key themes

Where the concluding observations made recommendations on SOGIESC, they focused primarily on ensuring adequate protection to LGBTIQ people through legal and administrative measures, including through comprehensive anti-discrimination legislation, the amendment or repealing of discriminatory or abusive laws, and the implementation of measures ensuring that violence and discrimination are effectively investigated and addressed. Notable exceptions are Thailand, whose recommendation specifically referred to LGBTIQ human rights defenders; and Malaysia, with a recommendation to discontinue policies seeking to “correct” the sexual orientation and gender identity of LGBTIQ people. Besides these, the treaty bodies in their Committee Meetings made references both to broad concerns (e.g. bullying, arbitrary arrests, violence and discrimination by state and non-state actors, etc.) and to specific events and circumstances (e.g. Malaysia's national action plan for addressing “social ills”, Thailand's increasing attacks on LGBTIQ human rights defenders, Timor-Leste's training of law enforcement to address violence on the basis of SOGIESC, etc.). For Singapore, the Committee meetings were noteworthy for its particularity in its questions on specific policies (e.g. residency status vis-a-vis sexual orientation and gender identity, the treatment of marriage in sex education, etc.).

In the civil society submissions, there is more specificity in the information provided on broad issues of violence and discrimination (e.g. specific instances of transgender students in Malaysia being forced to attend “correction camps”; the non-inclusion of transgender people in Singapore's Tripartite Alliance for Fair Employment Practice; the lack of legal remedies

to LGBTIQ people’s experiences of cyber-crimes in Thailand), as well as an increased reference to intersectional issues (e.g. attacks on LGBTIQ people and human rights defenders in Thailand’s Deep South; non-inclusive policies on unpaid care work; poor conditions of LGBTIQ people in cases of incarceration; censorship of LGBTIQ people in media or allowing only non-affirmative depictions of LGBTIQ people’s lives).

### **Notable Gaps**

Unfortunately, while both the Committee Meetings and the civil society submissions provided information on a variety of issues, these were not reflected in the Concluding Observations. The recommendations made were to enact broad measures, such as legislation to combat violence and discrimination, repealing discriminatory laws in the case of Malaysia, or broader measures to protect against discrimination “in law and in practice” in Singapore (with the exception of Thailand, which specified LGBTIQ human rights defenders). The Concluding Observations made no specific recommendations on particular issues (with the exception of Malaysia, which received a recommendation to stop the implementation of the action plan on “social ills”), and left out LGBTIQ people’s experiences from other social, economic, political, and cultural concerns within the respective purviews of the treaty bodies. Also notable was that the concerns faced by intersex persons were absent altogether, reflected in neither the treaty body processes nor in the few civil society submissions which made references to SOGIESC. Currently, the treaty body of CEDAW has offered the most input on SOGIESC, with references within other treaty bodies being scarce.



## UNIVERSAL PERIODIC REVIEW AND SOGIESC

The **Universal Periodic Review (UPR)**<sup>11</sup> is a process which assesses the human rights records of all UN member states and looks at how each state addresses and fulfils their human rights obligations. Unlike treaty bodies, the UPR looks at the human rights issues of states broadly, regardless of their ratification of international human rights instruments, and conducts this assessment with a consistent schedule. Each state undergoes the review every five years.

Since the first UPR cycle in 2008, the inclusion of SOGIESC issues have steadily increased through the continued engagement of LGBTIQ activists and allied civil society. During the first cycle, only three ASEAN member-states (Singapore, Malaysia, and Brunei) received recommendations on SOGIESC, and these focused primarily on the decriminalization of same-sex sexual relations. These were of course rejected by these countries on the grounds of honoring religious tenants, claims of protecting traditional values concerning the family, and to maintain the status quo in the interests of domestic sensitivities. During the second cycle, eight ASEAN member-states (Brunei, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam) including Timor-Leste received recommendations regarding SOGIESC, which covered not only decriminalization but also legislative reform towards ensuring non-discrimination on the basis of sexual orientation and gender identity. Of these, only Thailand, Viet Nam, and Timor-Leste accepted recommendations specific to SOGIESC issues. In the earlier part of the third cycle (covered prior to this time period of this fact sheet), the Philippines and Indonesia received recommendations on protecting human rights defenders working on LGBTIQ issues and creating laws ensuring the rights of LGBTIQ people. These were either rejected (for example, by Indonesia, which claimed that it would not accept “legal frameworks” which had no “universal consensus”) or were accepted (for example, by the Philippines, which supported a recommendation to address violence and discrimination against LGBTIQ people in educational institutions).<sup>12</sup>

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
Brunei	3 <sup>rd</sup> Cycle 33 <sup>rd</sup> Session	<p><b>State report</b> No references to SOGIESC were made.</p> <p><i>(A/HRC/WG.6/33/BRN/1)</i></p> <p><b>Advanced Questions</b> Advanced questions were raised by Germany and the United States of America on the following:</p> <ul style="list-style-type: none"> <li>• How provisions of the SPCO, which “would have a detrimental impact” on vulnerable groups including LGBTIQ people, would be implemented</li> <li>• How the Bruneian government “intend to safeguard the human rights of LGBTI persons”</li> </ul> <p><b>Compilation of Information from the UN</b> One (1) reference to SOGIESC was included:</p> <ul style="list-style-type: none"> <li>• Citation of the 2016 concluding observations of the Committee on the Rights of the Child (CRC) which raised concerns about discrimination experienced by LGBTIQ children and recommended a comprehensive strategy to address “the elimination of gender stereotypes and of de jure and de facto discrimination against all groups of children in marginalized and disadvantaged situations”.</li> </ul> <p><i>(A/HRC/WG.6/33/BRN/2)</i></p> <p><b>Stakeholders’ Submissions</b></p> <p>Two (2) separate civil society submissions made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li>• <b>Criminalization of homosexuality and cross-dressing under the Syariah Penal Code Order 2013 (SPCO)</b></li> </ul>	<p>Eighteen (18) recommendations directly referring to SOGIESC were made on the following:</p> <ul style="list-style-type: none"> <li>• To repeal or amend all laws criminalizing or “giving rise to discrimination against” persons on the basis of sexual orientation and gender identity, including those which “legalizes cruel, inhuman and degrading punishment” for adultery, homosexuality, and consensual same-sex relations <i>(Denmark, France, Germany, Netherlands, New Zealand, Sweden, United States of America, Uruguay, Austria, Chile, Malta, Canada, Greece, Iceland, Belgium, Mexico)</i></li> <li>• Ensure respect for dignity, life, and fair treatment for all persons, regardless of sexual orientation, such as through enacting laws and policies against violence and discrimination <i>(Costa Rica, Norway, Mexico)</i></li> </ul> <p>During the interactive dialogue of the UPR Working Group, other points were raised regarding:</p>	<p><u>Not Accepted</u></p> <p>All recommendations with reference to SOGIESC were not accepted.</p> <p>On penalties under the SPCO, the Bruneian government remarked that the corporal punishments in the SPCO will not be carried out arbitrarily and are intended to protect the society against serious crimes through the mechanism of deterrence, ensuring justice for the victims and their family and generally to preserve peace, morality and decency of the public”. They also added that “various stringent safeguards to ensure a fair and proper administration of justice as well as high evidential</p>

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Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p><b>2013</b>), including the use of whipping and stoning as potential punishments.</p> <ul style="list-style-type: none"> <li>• <b>Abuse of “current criminal climate” in the country</b>, such as reports of state forces “demanding sexual favors in exchange for not arresting LBT individuals”</li> </ul> <p><i>(A/HRC/WG.6/33/BRN/3; ASC; Joint Submission 1)</i></p>	<ul style="list-style-type: none"> <li>• How current laws allow “children under 18 years of age may be sentenced to life imprisonment and corporal punishment” <i>(Croatia)</i></li> <li>• The “detrimental impact” of the SPCO 2013 particularly on LGBTIQ people, including women and children <i>(Greece, Netherlands, Montenegro, Switzerland)</i></li> <li>• Acknowledging the moratorium on the death penalty and “other forms on inhumane punishment” specifically with regards LGBTIQ people <i>(Mexico)</i></li> </ul> <p>The Bruneian government denied that its laws criminalized people on the basis of their SOGIESC, asserting that “Brunei laws continued to protect the morality and decency of the public, while respecting the privacy of individuals” and that its citizens “regardless of their sexual orientation, continued to live and to pursue their activities in their own private space”.</p> <p><i>(A/HRC/42/11)</i></p>	<p>threshold required for prosecution for offences of <i>hadd</i> and <i>qisas</i>”.</p> <p>Regarding criminalization on the basis of SOGIESC, the Bruneian government remarked that “Brunei society, regardless of their status in relation to sexual orientation or belief, continues to live in peace and harmony and works together for the development and prosperity of the country”. They also added that “on the of homosexual acts, Brunei Darussalam affirms the right of privacy of individuals”.</p> <p><i>(A/HRC/42/11; A/HRC/42/11/Add.1)</i></p>

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
Cambodia	3 <sup>rd</sup> Cycle 32 <sup>nd</sup> Session	<p><b><u>State report</u></b>            No references to SOGIESC made.  <i>(A/HRC/WG.6/32/KHM/1)</i></p> <p><b><u>Advanced Questions</u></b>            Advanced questions were raised by Sweden and the United States of America on the following:</p> <ul style="list-style-type: none"> <li>• What steps are being taken to combat abuse, including domestic violence, perpetrated against LGBTIQ people</li> <li>• When the new curriculum concerning life skills, which offers education on sexual orientation, will be introduced.</li> </ul> <p><b><u>Compilation of Information from the UN</u></b>            One (1) reference to SOGIESC was included:</p> <ul style="list-style-type: none"> <li>• Citation of a 2015 report by the Special Rapporteur on the right to health which described how “stigmatizing rhetoric by politicians, public officials and religious leaders” and the “the criminalization of same-sex conduct and of different forms of gender identity and expression” has exacerbated negative attitudes towards LGBTIQ people and impacted their access to healthcare.</li> </ul> <p><i>(A/HRC/WG.6/32/KHM/2)</i></p> <p><b><u>Stakeholders’ Submissions</u></b></p> <p>Four (4) civil society submissions made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li>• <b>Exclusion of LGBTIQ people in laws and policies</b>, such as the lack of provisions specifically referring to SOGIESC in the Labor Law of 1997; lack of anti-</li> </ul>	<p>Nine (9) recommendations directly referring to SOGIESC were made on the following:</p> <ul style="list-style-type: none"> <li>• To adopt legislation and policies prohibiting discrimination and violence of all forms against LGBTIQ people “in consultation with civil society organizations”  <i>(Iceland, Mexico, Sweden, Uruguay, Australia)</i></li> <li>• To “enable legal marriage equality” through an amendment of Article 45 of the Constitution  <i>(Iceland, Netherlands, Canada)</i></li> <li>• Adopt a gender recognition law  <i>(Iceland)</i></li> </ul> <p>During the interactive dialogue of the UPR Working Group, other points were raised regarding:</p> <ul style="list-style-type: none"> <li>• Some progress in the inclusion of LGBTIQ people and strengthen their “full enjoyment of human rights”, including the inclusion of</li> </ul>	<p><u>Accepted</u></p> <p>All recommendations pertaining to SOGIESC were accepted.</p> <p>Regarding same-sex marriage, the Cambodian government commented that “while civil law still did not recognize the legitimacy of homosexual marriage and registration, it did not actually criminalize such marriage and practices,” and that “homosexual marriage was in fact very common in Cambodian society, in traditional and cultural practices,” mentioning “approximately 1,000 same-sex couple[s]” were married in traditional ceremonies.</p>

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p>discrimination and hate crime legislation; lack of legal gender recognition; the “absence of marriage equality” and limitation of same-sex couples’ rights such as adoption; the “failing to ensure legal aid or specialized service” for vulnerable groups like LGBTIQ people; and the need to “enlarge the implementation of the pension scheme” to include LGBTIQ people.</p> <ul style="list-style-type: none"> <li>• <b>Experiences of violence and discrimination</b>, such as bullying in schools; family rejection; difficulty accessing employment and shoehorning in marginalized labor sectors; arrests of transgender women because of their gender identity; reports of parents saying they “would force their children” to date or marry someone of the opposite sex; and barriers to accessing healthcare due to stigma.</li> <li>• <b>Developments on the inclusion of LGBTIQ people</b>, such as the provision of limited legal assistance; public support by some government officials; the inclusion of non-discrimination of sexual orientation in the proposed “Life Skills” curriculum; and the creation of a government committee “to observe and receive complaints from auditors witnessing discriminatory content in the media”.</li> </ul> <p>A pre-session statement acknowledged progress in terms of visibility and support by some government agencies and institutions and urged the Cambodian government to “engage with the civil society in working toward the enactment of policies and legislation ensuring the protection of the rights of the LGBTIQ Cambodian citizens”.</p> <p><i>(A/HRC/WG.6/32/KHM/3; RoCK; UNCT; CCHR et al.; Joint Submissions 7 and 17)</i></p>	<p>”inclusive instruction on sexual orientation issues in sexual education” <i>(Greece, Netherlands, Sweden)</i></p> <p><i>(A/HRC/41/17)</i></p>	<p><i>(A/HRC/41/17; A/HRC/41/17/Add.1)</i></p>

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
Laos	3 <sup>rd</sup> Cycle 35 <sup>th</sup> Session	<p><b>State report</b> No references to SOGIESC made. <i>(A/HRC/WG.6/35/LAO/1)</i></p> <p><b>Advanced Questions</b> None submitted with references to SOGIESC.</p> <p>Compilation of Information from the UN One (1) reference to SOGIESC was included: <ul style="list-style-type: none"> <li>Information on the development of a national youth policy, whose first phase involved young people from “traditionally underrepresented groups”, including LGBT youth.</li> </ul> <i>(A/HRC/WG.6/35/LAO/2)</i></p> <p><b>Stakeholders’ Submissions</b> No submissions made references to SOGIESC.</p>	<p>Two (2) recommendations directly referring to SOGIESC were made on the following:</p> <ul style="list-style-type: none"> <li>To adopt comprehensive anti-discrimination legislation which prohibits discrimination on the basis of sexual orientation and gender identity (<i>Iceland</i>)</li> <li>To improve the situation of LGBTI people, including by “considering their needs” and involving them in decision-making processes (<i>Malta</i>)</li> </ul> <p><i>(A/HRC/44/6)</i></p>	<p><u>Noted</u></p> <p>Both recommendations were “Noted”. The Lao government explained that “the Constitution and relevant laws” such as the Law on Gender Equality “prohibit any discrimination”. However, they stated further that the recommendation could not be supported “as the Lao laws do not acknowledge any other gender identity other than female and male”.</p> <p><i>(A/HRC/44/6/Add.1)</i></p>
Malaysia	3 <sup>rd</sup> Cycle 31 <sup>st</sup> Session	<p><b>State report</b> No references to SOGIESC made. <i>(A/HRC/WG.6/31/MYS/1)</i></p> <p><b>Advanced Questions</b> None submitted with references to SOGIESC.</p> <p><b>Compilation of Information from the UN</b> One (1) reference to SOGIESC was included: <ul style="list-style-type: none"> <li>Citation of a 2015 report by the Special Rapporteur on</li> </ul> </p>	<p>Ten (10) recommendations directly referring to SOGIESC were made on the following:</p> <ul style="list-style-type: none"> <li>To establish national legislation protecting LGBTIQ people from violence and discrimination (<i>Argentina, Austria</i>)</li> <li>To repeal laws criminalizing persons, directly or</li> </ul>	<p><u>Noted</u></p> <p>All nine (9) other recommendations were “noted”. The Malaysian government explained that “the rule of law depends on the moral consensus of the community which cannot be ignored in a democracy” and that</p>

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Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p>the right to health which described how “stigmatizing rhetoric by politicians, public officials and religious leaders” and the “the criminalization of same-sex conduct and of different forms of gender identity and expression” has exacerbated negative attitudes towards LGBTIQ people and impacted their access to healthcare.</p> <p><i>(A/HRC/WG.6/31/MYS/2)</i></p> <p><b>Stakeholders’ Submissions</b></p> <p>Twelve (12) civil society submissions made references to SOGIESC concerning:</p> <ul style="list-style-type: none"> <li>• <b>State-sanctioned abuse and harassment of LGBTIQ people and human rights defenders tackling LGBTIQ issues</b>, such as:</li> <li>• <b>Investigations, trumped-up charges, harassment, or grave and violent threats against LGBTIQ activists and human rights defenders associated with LGBTIQ advocacy</b>, such as lawyer Siti Kasim in April 2016; organizers of the “Big Gay Iftar” event in June 2017; the Coalition of Malaysian NGOs in January 2014; two gay men on allegations of a “gay wedding ceremony” in November 2017; the Women’s March participants in March 2018; and self-identified intersex person Nur Sajat.</li> <li>• <b>Increased and widespread prevalence of abuse and harassment of LGBTIQ people and human rights defenders by state and non-state actors</b>, including</li> </ul>	<p>indirectly, on the basis of sexual orientation and gender identity <i>(Canada, Chile, Germany, Iceland, France)</i></p> <ul style="list-style-type: none"> <li>• To guarantee the rights of LGBTIQ persons “in line with international obligations” <i>(Ireland)</i></li> <li>• To take other specific actions on LGBTIQ human rights such as “anti-bullying campaigns in school”, non-discrimination legislation, public awareness programs, and others <i>(Portugal, Netherlands).</i></li> </ul> <p>During the interactive dialogue of the UPR Working Group, other points were raised regarding:</p> <ul style="list-style-type: none"> <li>• Discrimination and exploitation of vulnerable people, including LGBTIQ person <i>(United States, Chile)</i></li> <li>• Encouragement to the government “to make progress in the area of lesbian, gay, bisexual,</li> </ul>	<p>“cultural or religious beliefs directly influence the views and outlook as well as the law on questions of sexual behaviours and the moral ethos of communities”.</p> <p>One (1) recommendation concerning anti-bullying campaigns in school to address discrimination of LGBTIQ people was “partially accepted”. The Malaysian government clarified that they “will continue to take more progressive measures towards broadening education facilities to include those previously denied access”.</p> <p><i>(A/HRC/40/11/Add.1)</i></p>

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**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p>online surveillance; reprisals against LGBTIQ activists; the rise of “vigilante” anti-LGBTIQ groups; “state-sanctioned Friday sermons” calling on a “jihad” against LGBTIQ people in mosques; discriminatory rhetoric and hate speech by “state actors across the political spectrum”; the deterioration of religious tolerance legitimized by “an official narrative of “identity politics” and “national unity””; and the leveraging of Menara.my, “a religious conservative online news portal with links to government officials”, whose publications led to death threats against LGBTIQ activists and the cancellation of LGBTIQ-related activities.</p> <ul style="list-style-type: none"> <li>• <b>State-sponsored anti-LGBTIQ programs and endorsement of anti-LGBTIQ propaganda</b>, such as:</li> <li>• <b>The implementation of anti-LGBTIQ policies and programs</b>, such as the endorsement of “conversion therapy” practices by government institutions such as JAKIM; the launching of the “Action Plan to Address Social Ills and LGBT Behaviour 2017-2021” by JAKIM in July 2016; the Ministry of Health’s discriminatory statements such as “promoting rehabilitation or ‘returning to the right path’” in 2017; the use of “gender confusion” as a category by the Ministry of Health in a national competition in June 2017; and claims of the Malaysian Islamic Strategic Research Institute (IKSIM) that LGBTIQ people “will undermine the Islamist agenda and destroy Malaysia’s sovereignty”.</li> <li>• <b>The rejection of all recommendations concerning LGBTIQ people during the UPR 2nd cycle.</b></li> </ul>	<p>transgender and intersex rights (<i>Ireland</i>).</p> <p>(A/HRC/40/11)</p>	



**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<ul style="list-style-type: none"> <li>• <b>Violence and other forms of abuse against LGBTIQ people</b>, such as: <ul style="list-style-type: none"> <li>• <b>Acts of violence</b>, such as the murder of transgender woman Sameera Krishnan in February 2017; the rape, torture, and murder of young person T. Nhaveen in June 2017 by former schoolmates who “taunted him with anti-gayslurs”; and other forms of gender-based violence and hate crimes against transgender and gender-diverse persons, including property destruction and physical assault, which are “largely unreported” or “are often dismissed”.</li> <li>• <b>Arrests and abusive treatment specifically targeting transgender women</b>, including the arrest of hundreds of transgender women under laws on “male person posing as a woman” between 2008 and 2012, as reported by government institutions; and arrest in 2014 of 17 transgender women, “including a minor”, with punishment including having their heads shaved in prison; and claims by JAKIM of the “rehabilitation” a thousand transgender women in its Mukhayyam programme.</li> </ul> </li> <li>• <b>Discrimination against LGBTIQ people in various settings</b>, such as:</li> <li>• <b>Lack of inclusive guidelines for dealing with LGBTIQ people’s concerns</b> such as in laws concerning domestic violence, rape, prison management; and the lack of “meaningful and serious efforts” to address sexual and gender-based violence on the basis of SOGIEESC.</li> </ul>		

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<ul style="list-style-type: none"> <li>• <b>The reinforcement of negative attitudes and misconceptions against LGBTIQ people</b>, such as provisions against “homosexuality and ‘gender confusion’” and “binary dress codes” in student handbooks; “guidelines to spot gay and lesbian persons” in schools; the increase of “sensationalist, inaccurate and harmful LGBT news and content”, such as an abuse news report which “exposed a housing area predominately occupied by trans women, as allegedly a ‘trans women’s den for sex work’”; transgender women’s associations with sex work which worsens social stigma; and other policies and actions which restrict access and availability of education, healthcare, and other services.</li> <li>• <b>The propagation of federal and state laws and policies reinforcing the marginalization of LGBTIQ people</b>, such as: <ul style="list-style-type: none"> <li>• <b>Criminalization</b> of consensual same-sex relations and transgender and gender-diverse identities and expressions (i.e. provisions on “posing as a woman/ man”) in the Penal Code; criminalization of “liwat”, “musahaqah” and “cross-dressing” in state Syariah laws; fatwas against LGBTIQ people “which in Malaysia carry legal effect when published in the state gazette”, including a 1983 fatwa “that prohibits gender affirmation surgeries”; and proposed amendments to the Syariah Court (Criminal Jurisdiction) Act 1965 seeking to increase maximum penalties.</li> <li>• <b>The implementation of action items which undermine “the rights of the LGBTIQ and other</b></li> </ul> </li> </ul>		

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p><b>marginalised and vulnerable groups” under the National Human Rights Action Plan (NHRAP)</b>, whose launch “saw none of the credible human rights organisations invited” and which “does not address systemic human rights issues and root causes of inequality”.</p> <p>Interestingly, two submissions reported LGBTIQ people’s “religious rights” being denied, and “attacks against academics and institutions dedicated to studying and advocating religious and health rights of LGBT persons”. One of these reports also claims that the reports of government initiatives such as JAKIM’s “Action Plan to Address Social Ills and LGBT Behaviour 2017-2021” used to promote violence and discrimination against LGBTIQ people are “an absolute misperception”.</p> <p><i>(A/HRC/WG.6/31/MYS/3; FLD; HRW; SUARAM; i-Medik; Joint Submissions 3, 4, 12, 16, 18, and 20)</i></p>		
Vietnam	3rd Cycle 32nd Session	<p><b>State report</b></p> <p>One (1) reference to SOGIESC was made:</p> <ul style="list-style-type: none"> <li>• Statement concerning how LGBT persons, among other groups, “may be detained in separate rooms” under the Law on the Enforcement of Custody and Temporary Detention of 2015, which provides that “persons under temporary detention and custody are entitled to have their lives, body and property protected and their honor and dignity respected.”</li> </ul> <p><i>(A/HRC/WG.6/32/VNM/1)</i></p>	<p>Four (4) recommendations directly referring to SOGIESC were made on the following:</p> <ul style="list-style-type: none"> <li>• To ensure protection of vulnerable groups, including LGBTIQ people <i>(Malta)</i></li> <li>• to “legalize same-sex marriage before the next review” <i>(Netherlands)</i></li> </ul>	<p><u>Accepted</u></p> <p>Two (2) recommendations concerning the protection of vulnerable groups including LGBTIQ people (38.97) and developing national anti-discrimination legislation inclusive</p>

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p><b><u>Advanced Questions</u></b>  Advanced questions were made by Sweden, the United States of America, and Spain on the following:</p> <ul style="list-style-type: none"> <li>• How Article 37 of the Civil Code on gender re-assignment adopted in 2015 will be implemented;</li> <li>• Whether sexual orientation and gender identity will be grounds for discrimination in the 2019 revision of the Labor Code;</li> <li>• How the recommendation from Chile to enact a law to fight discrimination including on the grounds of sexual orientation and gender identity, accepted by the Vietnamese government, will be implemented;</li> <li>• How the Vietnamese government intends to “strengthen LGBTI-persons’ full enjoyment of human rights; and</li> <li>• What steps will be taken “to prohibit discrimination on these bases [including LGBTIQ persons] in public life, including employment, housing and the provision of public services.”</li> </ul> <p><b><u>Compilation of Information from the UN</u></b>  One (1) reference to SOGIESC was included:</p> <ul style="list-style-type: none"> <li>• Citation of the UN country team submission recommending Vietnam to “adopt the law on gender affirmation as soon as possible and ensure its consistency with international human rights standards to enable transgender persons to change their legal gender marker”.</li> </ul> <p><i>(A/HRC/WG.6/32/VNM/2)</i></p>	<ul style="list-style-type: none"> <li>• To include sexual orientation and gender identity as grounds for discrimination in the Labor Code and other laws <i>(Norway)</i></li> <li>• To develop legislation specifically to forbid discrimination on the basis of sexual orientation and gender identity <i>(Chile)</i></li> </ul> <p>No other points regarding SOGIESC were raised in the interactive dialogue of the UPR Working Group.</p> <p><i>(A/HRC/41/7; A/HRC/41/7/Add.1)</i></p>	<p>of sexual orientation and gender identity (38.109) were “accepted.” The Vietnamese government remarked on the recommendation on vulnerable groups that “additional steps in identifying and protecting vulnerable groups will be undertaken in accordance with Viet Nam’s legal framework and its legal reform plan”.</p> <p><u>Noted</u></p> <p>The recommendation on legalizing same-sex marriage before the next review (38.98) was “not accepted”. The Vietnamese government explained that the rejection was because of its</p>

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p><b><u>Stakeholders' Submissions</u></b></p> <p>Ten (10) separate civil society submissions and one (1) UN Country Team made references to SOGIESC concerning:</p> <p><b>Absence of laws and state policies addressing LGBTIQ people's concerns</b>, such as:</p> <ul style="list-style-type: none"> <li>• <b>Non-inclusion of legislation concerning SOGIESC in the law-making agenda</b>, such as for an anti-discrimination law, despite accepting a recommendation in the previous UPR cycle to adopt such a law; and laws for legal gender recognition for transgender persons, despite legalization of gender-affirmative surgery and gender marker change in 2015.</li> <li>• <b>Exclusion of LGBTIQ people in existing laws and policies</b>, such as the limitation of adoption to single parents or married couples; non-recognition of same-sex couples, including rights to property; non-inclusion of LGBTIQ people in the government's "legal aid system for disadvantaged groups"; cases of rejected blood donations of men who have sex with men (MSM) despite such bans not being mandated by law; national strategies for HIV/AIDS response identifying only MSM as a key population; limiting Social Health Insurance (SHI) cards to places of "permanent residence registration", limiting LGBTIQ people's access to HIV/AIDS services "where facility far from where they live" or "migrate to avoid stigma"; and lack of prohibitions against "medically-unnecessary, non-consensual surgical and medical interventions on intersex children".</li> </ul>		<p>"prohibitively impossible "deadline" for measures that require a lot of time, effort and resources". The recommendation to include sexual orientation and gender identity in the Labor Code and other laws (38.99) was also "not accepted," but no reason was provided.</p> <p><i>(A/HRC/41/7/Add.1)</i></p>

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<p><b>Discriminatory practices against LGBTIQ people in different settings</b>, such as:</p> <ul style="list-style-type: none"> <li>• <b>Experiences of violence and discrimination</b>, including violence and sexual assault on the basis of SOGIESC in family, healthcare, employment, and educational settings; and discrimination in the access of other public services.</li> <li>• <b>Experiences of “conversion therapy” practices</b>, including “gay cures” and “corrective rape” arranged by family members.</li> <li>• <b>“Attrition” in litigation</b>, leading to low conviction rates, due to “social stigma” and “cultural shame”.</li> <li>• <b>Lack of healthcare services specific for LGBTIQ people</b>, with “less services for lesbians in comparison with gays”.</li> <li>• <b>Suppression of peaceful assembly and association, including for LGBTIQ human rights</b>, with some “being allowed when they served particular political interests”, including through the use of “redundant and unnecessary procedures”.</li> </ul> <p><b>Developments in the inclusion of LGBTIQ people</b>, such as:</p> <ul style="list-style-type: none"> <li>• <b>Legislation which directly or indirectly address LGBTIQ people</b>, such as the Law on the Enforcement of Custody and Temporary Detention of 2015; amendments in 2015 to the Penal Code which made crimes of rape and sexual assault apply to two persons regardless of birth sex; and the recognition of transgender persons in the Civil Code of 2015.</li> </ul>		

**TABLE 2**  
**Universal Periodic Review Cycles of ASEAN Member-States**

Country	UPR Cycle	Issues Raised	Recommendations	Status
		<ul style="list-style-type: none"> <li>• <b>The vote in favour of the IESOGI at the UN Human Rights Council in 2016.</b></li> <li>• <b>Increased public visibility and acceptance of LGBTIQ people</b>, such as in increased public advocacy on LGBTIQ issues and inclusion of LGBTIQ issues in mainstream media.</li> </ul> <p>One submission still observed that a “gradual awareness and openness of policy makers to address LGBT issues can be noted since 2014, resulting in a slight decrease of social stigma attached to LGBT.” The pre-session statement, summarizing key issues pertaining to laws and policies, called on the Vietnamese government to “continue working with international and domestic partners to implement the aforementioned recommendations to strive for a Vietnam inclusive and safe for all.”</p> <p><i>(A/HRC/WG.6/32/VNM/3; UNCT Vietnam; iSEE; NNIA; SCDI; Joint Submissions 3, 4, 5, 6, 7, 13, and 15)</i></p>		

## ANALYSIS

### Notable developments

During this period, all ASEAN member-states under review received significantly more input on SOGIESC both in terms of civil society submissions and in recommendations received. For example, Brunei received 18 recommendations compared to 4 recommendations in the previous cycle; Vietnam received 10 civil society submissions with references to LGBTIQ people's experiences compared to the 3 in the previous cycle; and Cambodia received 9 recommendations, all of which were accepted, compared to no recommendations made previously. Civil society submissions are also demonstrating increased cross-movement solidarity, wherein LGBTIQ and non-LGBTIQ organizations are submitting joint submission or individual submissions of non-LGBTIQ organizations write joint submissions and non-LGBTIQ organizations make references to LGBTIQ people in individual submissions. The reviews of some ASEAN member-states during this period also showed more variety in issues raised than in the previous cycle, with Vietnam receiving recommendations on legislating same-sex marriage and including sexual orientation and gender identity in specific laws; and Cambodia receiving recommendations to enact a gender recognition law.

### Key themes

All ASEAN member-states under review received recommendations to enact legislation to prohibit violence and discrimination on the basis of sexual orientation and gender identity. Most other recommendations made were also on enacting legislation, whether to repeal discriminatory laws in Brunei and Malaysia or Brunei and Malaysia or to enact laws on particular issues such as same-sex marriage in Vietnam and Cambodia. The civil society submissions also highlighted issues concerning legislation, but besides the lack of anti-discrimination laws also identified specific gaps in policies on adoption, access to healthcare on the basis of residency status, access to legal aid, incarceration, and legal gender markers. Explicitly discriminatory policies were also identified, such as the refusal of blood donations from persons identified as MSM in Vietnam and guidelines by schools for "spotting" gay and lesbian persons in Malaysia. Specific instances of stigmatization indirectly affecting LGBTIQ people's access to their rights were also mentioned, such as how stigma in Vietnam leads to attrition and low conviction rates for cases involving LGBTIQ people. Broad issues of violence and discrimination were also identified, with varying degrees of detail as some cases are more widely reported than others. Of the ASEAN member-states reviewed, Brunei's recommendations were uniquely focused on a single issue (i.e. Syariah Penal Code Order 2013).



## Notable Gaps

There were notable gaps in the information provided by civil society organizations and the subsequent recommendations made. While the submissions made note of a variety of different issues ranging from social protection to the effects of policies on health and education, the majority of recommendations concerned broad calls for anti-discrimination legislation. Criminalization of same-sex sexual relations and gender-diverse expressions and identities were a prominent detail in the submissions for Malaysia and Brunei, which also reflected in the recommendations made. Brunei is noteworthy as there were only two civil society submissions during this period, with detailed information drastically limited only to the issue of the Syariah Penal Code Order 2013, and with the recommendations focusing solely on this point. Issues specific to transgender people also featured prominently in the submissions, but information on other identities such as those concerning LBQ women were very limited. More comprehensive information on the issues of LGBTIQ people is limited to general statements (e.g. discrimination in employment or healthcare) and lack more precise data (e.g. based on surveys or other similar measures), with the exception of some documented cases. The concerns of intersex persons are also absent from the UPR process of the ASEAN member-states during this period.

## UN SPECIAL PROCEDURES AND SOGIESC

The **UN Special Procedures (UNSPs)**<sup>13</sup> are independent human rights experts who work on different civil, cultural, economic, political, and social rights. There are various thematic mandates (e.g. **Independent Expert on SOGI**<sup>14</sup>) and country-specific mandates, and they are tasked with conducting thematic reports, undertaking country visits, acting on cases through communications to States, convening expert consultations, participating in advocacy projects, and contributing to the development of human rights standards.

LGBTIQ activists in ASEAN member-states can engage UNSPs to mobilize international human rights institutions to give attention to broader human rights issues affecting LGBTIQ people. By engaging with UNSPs, mandate-holders can report on specific human rights issues affecting LGBTIQ people in an intersectional way; help them raise LGBTIQ issues in their various platforms; address specific violations and bring them under international attention; and link LGBTIQ issues to their mandates and strengthen the links between LGBTIQ people's experiences and human rights norms.<sup>15</sup>

**TABLE 3**  
**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
<p><b>Independent Expert on Protection Against Violence and Discrimination based on Sexual Orientation and Gender Identity</b></p>	<p><b>The root causes of violence and discrimination on the basis of sexual orientation and gender identity</b> <i>(A/HRC/38/43)</i></p>	<p>The report mentions developments in ASEAN member-states regarding:</p> <ul style="list-style-type: none"> <li>• the criminalization of same-sex relations in Indonesia</li> <li>• the prescription of the death penalty on homosexuality in Brunei</li> <li>• the introduction of public education curricula on LGBTIQ issues in Cambodia</li> <li>• the approval of anti-discrimination legislation, including on the basis of SOGI, in the House of Representatives in the Philippines.</li> </ul> <p><i>“Stigma at the root of violence and discrimination corrodes the social fabric. It affects values of fundamental importance, such as empathy, social inclusion and solidarity.”</i> <i>(Par. 60)</i></p> <p><i>“Although the Independent Expert recognizes the complexity of these and other existential and political points of departure and the connected dynamics, he is persuaded that within the expansions and contractions of such a universe resides extraordinary energy and potential to bring about constructive change.”</i> <i>(Par. 25)</i></p> <p><i>“The lesbian, gay, bisexual, trans and gender non-conforming persons who are victims of the heinous crimes described in the present report exist in all regions of the world, in families and communities everywhere, and together we thread the fabric of our societies every day. Negation violates the dignity of victims and is offensive to the global conscience.”</i> <i>(Par. 86)</i></p>	<p>The Independent Expert recommended the following measures that are relevant to ASEAN governments:</p> <ul style="list-style-type: none"> <li>• Adopt, with the effective participation of civil society, laws and policies directly addressing violence and discrimination on the basis of SOGI which are contextualized, evidence-based, and considers different factors that impact people’s vulnerability.</li> <li>• Amend or repeal laws criminalizing consensual same-sex relations and non-cisgender / gender non-conforming identities or expressions, including “anti-propaganda laws” and laws based on morality, public decency, public health, and national security.</li> <li>• Take measures to prevent, investigate, and punish violence and discrimination based on SOGI, including legislating “hate crimes” and developing “comprehensive data collection procedures” to accurately assess violence and discrimination.</li> <li>• Enact laws to protect and promote, including gender</li> </ul>

**TABLE 3**  
**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
			<p>recognition laws and laws protecting LGBTIQ human rights defenders to “create safe and enabling spaces for their work”.</p>
	<p><b>The repression and pathologization of trans and gender-diverse identities and expressions</b>  (A/73/152)</p>	<p>The report mentions developments in ASEAN member-states regarding:</p> <ul style="list-style-type: none"> <li>• A ruling by Thailand’s Administrative Court ordering the Ministry of Defence to use non-stigmatizing language in relation to “granting trans women exemption from military service”, as previously the practice was to use the phrase “permanent mental disorder” when providing these exemptions.</li> </ul> <p><i>“Pathologization has had a deep impact on public policy, legislation and jurisprudence, thus penetrating all realms of State action in all regions of the world and permeating the collective conscience.”</i> (Par. 14)</p> <p><i>“The principles of freedom and autonomy directly contradict the idea that a person is born to play a certain role in society. Self-determined gender is a fundamental part of a person’s free and autonomous choice in relation to roles, feelings, forms of expression and behaviours, and a cornerstone of the person’s identity.”</i> (Par. 21)</p>	<p>The Independent Expert recommended the following measures that are relevant to ASEAN governments:</p> <ul style="list-style-type: none"> <li>• Adopt laws and policies “conducive to eradicating the conception of gender diversity as a pathology from all aspects of everyday life”, including facilitating discussion on the ICD 11<sup>th</sup> Edition’s diagnostic category of “gender incongruence of childhood” and enacting “recognition systems for the gender identity of trans and gender diverse children”.</li> <li>• Review and revise laws which increase vulnerabilities of transgender and gender-diverse persons, including laws which “exacerbate police abuse and harassment” or laws which provide “abusive requirements as prerequisites” for legal gender recognition (e.g. forced sterilization, medical procedures, etc.).</li> </ul>

**TABLE 3**  
**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
	<p><b>“Data collection and management as a means to create heightened awareness of violence and discrimination based on sexual orientation and gender identity”</b></p> <p><i>(A/HRC/41/45)</i></p>	<p>The report mentions developments in ASEAN member-states regarding:</p> <ul style="list-style-type: none"> <li>• A case in Cianjung, West Java in Indonesia where data from an HIV/AIDS program was shared with government officials for no legitimate reason, apparently towards enforcing the criminalization of homosexuality (par. 31).</li> </ul> <p>While not referring to specific countries, submissions of civil society from ASEAN member-states were cited regarding:</p> <ul style="list-style-type: none"> <li>• Theft of sensitive data motivated by stigma on the basis of SOGI.</li> <li>• The invisibilization of LGBTIQ communities’ concerns in policymaking.</li> <li>• Public exposure of SOGI leading to social exclusion.</li> <li>• Abuse of specific laws to target LGBTIQ persons, such as child protection laws.</li> <li>• The practice of “doxing” (i.e. “publishing private or identifying information about an individual with malicious intent”) against LGBTIQ people.</li> </ul> <p><i>“Human rights considerations demand careful management of the design and implementation of the processes for the collection and management of all personal information. In the areas of sexual orientation and gender identity the risks are exacerbated owing to the associated stigmatization in certain social contexts, which might create a motivation to hack or steal the data or otherwise unlawfully access it.”</i>  <i>(Par. 17)</i></p>	<p>The Independent Expert recommended the following measures that are relevant to ASEAN governments:</p> <ul style="list-style-type: none"> <li>• Implement data collection and reporting systems to “uniformly and accurately assess the type, prevalence, trends and patterns of violence” against LGBTIQ persons.</li> <li>• “Follow a human rights-based approach” to the use of data, including taking into account principles of accountability, lawful use, and so on.</li> <li>• “Develop specific programmes and policies to end the spiral of discrimination, marginalization and exclusion”, including programs for inclusive and rights-based data collection on the experiences of LGBTIQ people.</li> </ul>

**TABLE 3**  
**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p><i>“The duty to understand the manner in which these traits in a person’s identity have an impact on their exposure or vulnerability to violence and discrimination is a key element in the obligation of States to prevent, prosecute and punish violations of human rights.” (Par. 70)</i></p> <p><i>“However, information about the lived realities of lesbian, gay, bisexual, trans and gender-diverse persons around the world is, at best, incomplete and fragmented; in some areas it is non-existent. ... it means that in most contexts policymakers are taking decisions in the dark, left only with personal preconceptions and prejudices or the prejudices of the people around them.” (Par. 71)</i></p>	
	<p><b>Marginalization of LGBTIQ people through sociocultural norms and discriminatory laws</b></p> <p><i>(A/74/181)</i></p>	<p>The report mentions developments in ASEAN member-states regarding:</p> <ul style="list-style-type: none"> <li>• Research on Indonesia indicating the psychological toll of concealing their SOGI and its effect on mental health and productivity.</li> <li>• Research on Thailand indicating that personal information such as family and partner status can lead to discrimination in providing employment benefits.</li> <li>• The passage of Philippines has passed anti-discrimination legislation, mentioning Quezon City.</li> </ul> <p><i>“No particular identity will ever encapsulate the entire complexity of the lived human experience, but each one of them can nonetheless serve as a point of entry, a prism through which the mandate holder may attempt to describe the</i></p>	<p>The Independent Expert recommended the following measures that are relevant to ASEAN governments:</p> <ul style="list-style-type: none"> <li>• Reform laws “to ensure conformity with international human rights law”, including repealing laws directly or indirectly criminalizing LGBTIQ people and “enshrining of anti-discrimination measures both in national law” and the “regulation of sectors or public services or executive actions”.</li> </ul>

**TABLE 3**  
**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p><i>infinite richness of human aspirations and experiences, and the depths of misery to which some persons are sunk by violence and discrimination. In turn, this will hopefully allow for the texture of these lived experiences to be made visible and, as a consequence, addressable.</i>            (Par. 4)</p> <p><i>“Being compelled to negate or conceal sexual orientation and gender identity, and the legitimate desires and aspirations inextricably linked to them, holds no redeeming social value. Self-unawareness, self-hatred and lying should not be encouraged by any societal norm or forced on any person as the only way to avoid violence and discrimination.”</i>            (Par. 62)</p> <p><i>“In its most ample conception, social inclusion requires urgent measures to dismantle the systems of repression that enforce the idea that diversity in sexual orientation and gender identity is somehow harmful to society, that LGBT persons are somehow disordered or that their identities are criminal.”</i>            (Par. 95)</p>	<ul style="list-style-type: none"> <li>• Enabling “good governance” by mainstreaming LGBTIQ issues, ensuring “effective participation” of communities in decision-making, and strengthening national human rights institutions</li> <li>• Adopt specific measures to ensure inclusion of LGBTIQ people in different sectors, including sensitization training for government personnel, creating “a system ensuring proper investigation and sanctions” for acts of violence and discrimination, and coordinating anti-discrimination measures across different state institutions.</li> <li>• Adopt measures for the “commemoration and celebration of human diversity” and for rectifying “past wrongs deriving from pathologization, criminalization or any other stigmatizing processes”.</li> </ul>
<p><b>Special Rapporteur in the Field of Cultural Rights</b></p>	<p><b>Country Visit to Malaysia on 11-22 September 2017</b>  <i>(A/HRC/40/53/Add.1)</i></p>	<p>The Special Rapporteur reported the following issues concerning LGBTIQ people:</p> <ul style="list-style-type: none"> <li>• How “respect for cultural diversity has been challenged” and how these have translated into exclusion and ill-treatment of LGBTIQ persons in Malaysia.</li> <li>• The continued existence of laws criminalizing “homosexuality and gender fluidity” and proposed legislation (e.g. RUU335) to increase penalties for such laws.</li> </ul>	

**TABLE 3**  
**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<ul style="list-style-type: none"> <li>• Repressive policies such as the censorship of media “portraying homosexual or transgender persons in a positive manner”.</li> <li>• The “misuse of the concept of extremism” and the labelling of human rights defenders as “extremists” to repress activities undertaken by LGBTIQ communities and other progressive groups.</li> </ul> <p>The Special Rapporteur concluded with a call to ensure the “lived reality of moderation and progressiveness in Malaysia is consistent with the rhetoric of its Government,” and to do so through “concrete action demonstrating effective commitment to the cultural rights of all, to cultural diversity and pluralism, and to [sic] unequivocal rejection of fundamentalist ideology.”</p>	<p>The Special Rapporteur recommended the following with regards SOGIESC:</p> <ul style="list-style-type: none"> <li>• To “repeal all laws that directly and indirectly criminalize same-sex sexual activities and cross-dressing”.</li> <li>• Adopt measures “to end hostility and intolerance on the basis of sexual orientation and gender identity” and “provide meaningful protection” to LGBTIQ people from “stigmatization, violence and discrimination”.</li> </ul>
<p><b>Special Rapporteur on the Sale and Sexual Exploitation of Children, including Child Prostitution, Child Pornography and other Child Sexual Abuse Material</b></p>	<p><b>Country Visit to Malaysia on 24 September to 1 October 2018</b> <i>(A/HRC/40/51/Add.3)</i></p>	<p>The Special Rapporteur reported the following issues concerning LGBTIQ people:</p> <ul style="list-style-type: none"> <li>• Concerns regarding reports of “an increasingly hostile climate and State-supported or -tolerated physical and sexual violence, confinement, isolation, and corrective or rehabilitative practices” directed at LGBTIQ children.</li> </ul>	<p>The Special Rapporteur recommended the following with regards SOGIESC:</p> <ul style="list-style-type: none"> <li>• To “undertake comprehensive reform of the syariah, customary and civil legal systems to eliminate disparities and inconsistencies between the three legal systems” to align these with the CRC, including the amendment of laws discriminating against LGBTIQ children.</li> </ul>



**TABLE 3**  
**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
<p><b>Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises</b></p>	<p><b>Country Visit to Thailand on 26 March to 4 April 2018</b> <i>(A/HRC/41/43/Add.1)</i></p>	<p>The Working Group reported the following issues concerning LGBTIQ people:</p> <ul style="list-style-type: none"> <li>• Concerns regarding LGBTIQ people facing discrimination “in availing themselves of services or finding employment.”</li> <li>• A comment on “the lack of any complaints of sexual harassment or discrimination based on sex” since the enactment of the Gender Equality Act of 2015, which may “indicate that the full potential of the new law is not being realized.”</li> </ul>	<p>The Special Rapporteur recommended the following with regards SOGIESC:</p> <ul style="list-style-type: none"> <li>• To “engage in a multi-stakeholder process to contribute to the development of a national action plan on business and human rights”, including the participation of LGBTIQ people.</li> </ul>
<p><b>Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation</b></p>	<p><b>Country Visit to Malaysia on 14 March to 27 November 2018</b> <i>(A/HRC/33/49; A/HRC/42/47/Add.2)</i></p>	<p>The Special Rapporteur reported the following issues concerning LGBTIQ people:</p> <ul style="list-style-type: none"> <li>• The importance of monitoring “gender inequalities”, including with LGBTIQ persons, and how these impact their access to sanitation and menstrual hygiene facilities in inter-household and extra-household settings.</li> <li>• How “restrictive gender recognition laws” undermined transgender and gender-diverse persons’ access to basic services and “prevented them from living safely”.</li> <li>• How water and sanitation services must “ensure dignity of all individuals”, including transgender and gender-diverse persons.</li> <li>• How LGBTIQ people experience “face additional challenges in areas affected by disaster”.</li> <li>• The increased health risks faced by transgender and gender-diverse persons, including urinary tract infections, “due to restricted use of toilets” and how they are forced to use the</li> </ul>	<p>The Special Rapporteur recommended the following with regards SOGIESC:</p> <ul style="list-style-type: none"> <li>• To “monitor how gender inequalities in access to toilets, including among gender non-conforming persons, manifest in spheres beyond the home”.</li> </ul>

**TABLE 3**  
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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p>toilets based on their birth sex, to use toilets much farther away, or are subjected to harassment when using the toilet.</p> <ul style="list-style-type: none"> <li>• The “bullying, harassment, and assault” experienced by transgender children when accessing toilets in schools.</li> </ul>	
<p><b>Special Rapporteur on the Human Rights Situation in Cambodia</b></p>	<p><b>Various reports on Cambodia from 2016 to 2019</b></p> <p><i>(A/HRC/36/61; A/HRC/39/73; A/HRC/42/60; A/HRC/42/60/Add.1)</i></p>	<p>The Special Rapporteur reported the following issues concerning LGBTIQ people:</p> <ul style="list-style-type: none"> <li>• Reports of “high incidents of violence” against LGBTIQ people and the need for “special consideration” to address them.</li> <li>• The importance of “considering marginalized groups” and the need to go “beyond geographical differences” and pay attention to “specific groups that are most at risk of being left behind,”, including those marginalized on the basis of sexual orientation and gender identity, in realizing the Sustainable Development Goals (SDGs) in the country.</li> <li>• An observation regarding the lack of legal gender recognition laws for transgender people.</li> <li>• An observation that the constitution’s definition of marriage legally excludes same-sex marriages.</li> </ul>	<p>No recommendations specifically referring to SOGIESC were made.</p>
<p><b>Special Rapporteur on the Human Rights Situation in Myanmar</b></p>	<p><b>Report on Cambodia from 2019 to 2020</b></p> <p><i>(A/HRC/43/59)</i></p>	<p>No specific mention of SOGIESC was made in the report.</p> <p>Report was mainly based on work conducted in bordering countries of Bangladesh and Thailand, as the Government of Myanmar had withdrawn support from the mandate and refused requests for information and country visits.</p>	<p>The Special Rapporteur recommended the following with regards SOGIESC:</p> <ul style="list-style-type: none"> <li>• To “embark upon a national dialogue to bring the nation together, provide a forum for debate and discussion about the past and future, and reinvigorate a vision for nation building”, including LGBTIQ people.</li> </ul>

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**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
<p><b>Joint Communications of Different Special Procedures</b></p>	<p><b>Amendments to Singapore’s Public Order Law and impact on Pink Dot 2017</b></p> <p><i>(AL SGP 3/2017, 11 July 2017; Response of Singapore Government, 8 September 2017)</i></p>	<p>Mandate-holders communicated to the Singaporean government concerning allegations of amendments to the Public Order (Amendment) Act 2017 which would unduly affect the organizing of Pink Dot 2017. These amendments specifically emphasized that activities “directed towards a political end” cannot be organized or involve the participation of non-Singaporean citizens or entities. Concerns were raised that freedom of peaceful assembly was being further restricted and that “the amendments adopted effectively prevent foreigners from participating in assemblies in general, and impact the capability of organizers of the festival to raise necessary funds due to the fact that foreign entities are banned from financially supporting the event.”</p> <p>The mandate-holders requested information on the following:</p> <ul style="list-style-type: none"> <li>• Input on the allegation of the law’s impact on Pink Dot 2017.</li> <li>• The law’s compatibility with international human rights standards.</li> <li>• Measures taken to ensure freedoms of expression, association, and peaceful assembly.</li> <li>• Measures taken to ensure the law’s amendments do not disproportionately affect the rights of LGBTIQ people.</li> </ul> <p>This communication was issued by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression</li> <li>• Special Rapporteur on the rights to freedom of peaceful assembly and of association</li> <li>• Special Rapporteur on the situation of human rights defenders</li> </ul>	<p>The Singapore government responded as follows:</p> <ul style="list-style-type: none"> <li>• That the constitutionally-guaranteed freedoms are “not unqualified rights”, that limits are recognized “for the protection of national security, public order, or public health and morals”, and that such rights are exercised “within the context of broader social priorities and with mutual respect to preserve a harmonious society”.</li> <li>• That the law only reiterated the government’s original position that “foreign entities/persons should not interfere with domestic issues, especially political issues or controversial social issues with political overtones,” clarifying further that the amendment was meant “to protect the Singaporean public and large-scale events against terror attacks or public order incidents by putting in place adequate security measures.”</li> <li>• That the law was applied without discrimination, and also pointed out that the activity’s</li> </ul>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<ul style="list-style-type: none"> <li>Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> </ul>	<p>subsequent success “shows that Singapore citizens can more than ably organize and take part in civic activities on issues they care about, including LGBT issues, on their own without foreign assistance and involvement.”</p>
	<p><b>Arrest, detention, and torture of <i>waria</i> in North Aceh, Indonesia</b></p> <p><i>(UA IDN 1/2018, 12 February 2018; Response of Indonesia Government, 27 February 2018)</i></p>	<p>Mandate-holders communicated with the Indonesian government regarding events transpiring in North Aceh where twelve <i>waria</i>, members of the LGBTIQ advocacy group Putroe Sejati Aceh, were arrested on the basis of their gender identity “and their legitimate and peaceful activities in defense of the rights of transgender people in Aceh province.” Documentation included instances of physical assault and various forms of humiliation, and it was reported that many more <i>waria</i> and LGBTIQ advocates fled in fear of similar attacks.</p> <p>The mandate-holders requested information on the following:</p> <ul style="list-style-type: none"> <li>Input on the allegations regarding the arrest of the twelve members of Putroe Sejati Aceh, including the legal grounds for these arrests; their compatibility with Indonesia’s human rights obligations; investigations done on the detention, torture, and ill-treatment of the victims on the basis of their gender identity; and investigation into the violation of the victims’ rights to privacy due to the publication of videos and photos of the victims on social media and other media outlets.</li> </ul>	<p>The Indonesia government responded as follows:</p> <ul style="list-style-type: none"> <li>That the Chief of National Police was investigating the matter, and had previously also issued a circular on hate speech (Circular Letter No. SE/6/X/2015) providing protection on the basis of sexual orientation and gender identity.</li> <li>That restrictions “established by law based on considerations of morality, religious values, security and public order for the purpose of guaranteeing the recognition and respect of the rights and freedoms of others” must still be observed.</li> <li>That Aceh Province’s special autonomy status allows them to</li> </ul>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<ul style="list-style-type: none"> <li>• Measures taken to ensure the Aceh government’s laws are compatible with international human rights standards.</li> <li>• Measure taken to protect the LGBTIQ peoples’ human rights in Indonesia, particularly their rights “to liberty and security, to be free from torture and ill-treatment, to privacy, to be protected against arbitrary displacement and to non-discrimination.”</li> <li>• Measures taken to protect LGBTIQ human rights defenders in Indonesia to ensure they “are able to carry out their legitimate work without fear of threats or acts of intimidation and harassment of any sort”.</li> </ul> <p>This communication was jointly submitted by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Working Group on Arbitrary Detention</li> <li>• Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression</li> <li>• Special Rapporteur on the situation of human rights defenders</li> <li>• Special Rapporteur on the human rights of internally displaced persons</li> <li>• Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> <li>• Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment</li> </ul>	<p>enact “Qanun Jinayat” (Eng. Islamic criminal code) to implement its particular religious laws.</p>

**TABLE 3**  
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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
	<p><b>Exposure of sensitive personal information of gay men in Cianjung, West Java, Indonesia</b></p> <p><i>(OL IDN 2/2019, 13 February 2019)</i></p>	<p>Mandate-holders communicated with the Indonesian government regarding the alleged exposure of the names and addresses of gay men by the Cianjur AIDS Prevention Commission in a letter sent to the local administration, and that the same letter which “reported a significant increase of LGBT individuals” was used as a basis for a series of instructions and decrees “to mitigate the LGBT threat”. This included the Cianjur Regency’s promulgation of a circular “<i>Tentang Penyampaian Khutbah Jum’at Terkait LGBT</i>” (Eng. “Regarding the Delivery of the Friday Sermon Regarding LGBT”, Circular Letter No. 400/5368/Kesra). They also expressed concerns these are happening “in a climate that has become increasingly unsafe and discriminatory towards LGBT persons,” and that the specific involvement of Cianjur’s public health body “hinder public health outreach programs and access to health care services for people living with HIV, making the spread of the disease more likely.”</p> <p>The mandate-holders requested information on the following:</p> <ul style="list-style-type: none"> <li>• Input on the allegations regarding the allegations, including measures to counter discriminatory policies against LGBTIQ people at the local level; and measures to “halt and publically condemn the homophobic and transphobic hate speech disseminated by local officials and religious leaders” and prevent such actions in the future.</li> <li>• Measures taken to ensure LGBTIQ people’s rights to privacy and confidentiality of their personal information and that “such information is not used to target and discriminate against individuals”.</li> <li>• Measure on countering “hateful rhetoric against LGBT people and misrepresentation of this community leading to</li> </ul>	<p>The Indonesia government has not responded.</p>

**TABLE 3**  
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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p>violence and discrimination”, including discrimination in access to healthcare information and services.</p> <ul style="list-style-type: none"> <li>• Any plans to enact anti-discrimination legislation prohibiting hate speech and incitement to violence and discrimination on the basis of sexual orientation and gender identity.</li> </ul> <p>This communication was jointly submitted by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health</li> <li>• Special Rapporteur on the right to privacy</li> <li>• Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> </ul>	
	<p><b>Criminalization of adult consensual sexual relations and the imposition of corporal punishment in Malaysia</b></p> <p><i>(OL MYS 5/2018, 16 November 2018)</i></p>	<p>UNSP mandate-holders communicated with the Malaysian government regarding the criminalization and use of corporeal punishment for consensual sexual relations, between unmarried persons and between persons of the same birth sex, under criminal and syariah law at both the federal and state levels. They raised concerns that these laws create dangerous conditions for LGBTIQ people since “people who are accused and/or convicted of adultery, sodomy, or same-sex sexual relations tend to be targets of violence and abuse, by members of family, community or law enforcement officers, due to a belief that they deserve to be punished for their moral crimes.” They also drew attention to the Malaysian government’s commitments as a party to the Geneva Conventions, which prohibits the use of corporal punishment.</p>	<p>The Malaysia government has not responded.</p>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p>The mandate-holders urged the following:</p> <ul style="list-style-type: none"> <li>• To repeal laws criminalizing consensual sexual relations between unmarried persons and persons of the same sex.</li> <li>• To impose a moratorium on corporal punishment as an interim measure, and to repeal all laws related to its use.</li> <li>• To review provisions concerning corporal punishment in preparation for the ratification of the UN Convention Against Torture.</li> </ul> <p>This communication was jointly submitted by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> <li>• Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment</li> <li>• Special Rapporteur on violence against women, its causes and consequences</li> <li>• Working Group on the issue of discrimination against women in law and in practice</li> </ul>	



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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
	<p><b>Investigations of organizers of the Women’s Day March in Kuala Lumpur, and police probes of LGBTIQ human rights defender Numan Afifi</b></p> <p><i>(AL MYS 2/2019, 10 May 2019; Response of Malaysia Government, 24 January 2020)</i></p>	<p>Mandate-holders communicated with the Malaysian government regarding investigations into the organizers of the Women’s Day March held on 9 March 2019 in Kuala Lumpur; and probes of LGBTIQ human rights defender Numan Afifi following his statement on 14 March 2019 during Malaysia’s Universal Periodic Review. Regarding the Women’s Day March, the investigations were prompted by the inclusion of LGBTIQ issues and LGBTIQ organizations during the activity, as responses from some Malaysian government officials specifically singled these out. The information received was that organizers were “summoned for questioning” pursuant of the Sedition Act 1948 and the Peaceful Assembly Act 2012, officially on the grounds that the prescribed advanced notice required was not provided to police. Regarding Numan Afifi, the information received was that they were interrogated by the Royal Malaysia Police following his statement during Malaysia’s UPR. However, the interrogation itself concerned another individual from another organization, who had made a statement “which condemned Malaysia’s practices regarding sexual orientation and gender identity.” They stated further that “acts of reprisals against human rights defenders for their interactions with UN human rights mechanisms are condemned in the strongest possible terms.”</p> <p>The mandate-holders requested information on the following:</p> <ul style="list-style-type: none"> <li>• Input on the allegations, including the legal basis for investigations carried out against organizers of the Women’s Day March; and information regarding the summoning of LGBTIQ human rights defender Numan Afifi for questioning.</li> </ul>	<p>The Malaysian government responded as follows:</p> <ul style="list-style-type: none"> <li>• The summons of LGBTIQ human rights defender Numan Afifi was not about his involvement on LGBTIQ issues but about the statement of another foreign national who delivered a statement during the UPR process on the removal of religious status from Malaysian identification card, as he was present during the event.</li> <li>• No investigation was conducted against the Women’s Day March organizers.</li> <li>• That human rights defenders and civil society “are free to participate in all platforms” and that they are recognized as “important partners in the protection and promotion of human rights”.</li> <li>• That there are no policies discriminating or denying the rights of LGBTIQ people in the country, but that rights to “live according to the lifestyle of one’s choosing” is subject to the</li> </ul>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<ul style="list-style-type: none"> <li>• Measures to ensure that civil society can engage with international human rights mechanisms without fear of reprisal.</li> <li>• Measures to ensure LGBTIQ human rights defenders “are able to carry out their legitimate work in a safe and enabling environment”.</li> <li>• Measures taken “to foster, embrace and celebrate a diverse society” that includes LGBTIQ people.</li> </ul> <p>This communication was jointly submitted by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Special Rapporteur on the rights to freedom of peaceful assembly and of association</li> <li>• Special Rapporteur on the situation of human rights defenders</li> <li>• Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> <li>• Working Group on the issue of discrimination against women in law and practice</li> </ul>	<p>country’s laws and that “it is the Government’s responsibility to ensure that the religions and cultural sensitivities in Malaysia are equally respected.”</p>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
	<p><b>The imposition of cruel, inhuman and degrading punishments, including the death penalty, for consensual same-sex relations under the Syariah Penal Code Order 2013 in Brunei</b></p> <p><i>(OL BRN 1/2019, 1 April 2019; Response of Brunei Government, 7 April 2019)</i></p>	<p>Mandate-holders communicated with the Bruneian government regarding the full implementation of Syariah Penal Code Order 2013 (SPCO) scheduled in April 2019, stating that serious concerns had been raised by the UNSPs in previous years but that it had not been repealed. They explained that the “definition of sexual relations between consenting adults as criminal offenses should be regarded as an unlawful interference with the right to privacy of the individuals concerned.” On the issue of adultery, they also noted that “while criminal law definitions of adultery may be ostensibly gender neutral and prohibit adultery by both men and women, closer analysis reveals that the criminalization of adultery is both in concept and practice overwhelmingly directed against women and girls.”</p> <p>The mandate-holders requested information on the following:</p> <ul style="list-style-type: none"> <li>• Input on the allegations, including information on the “impact of the criminalisation of adultery and consensual same sex relationships on discrimination and violence against women and girls and persons based on their perceived or actual sexual orientation or gender identity”,</li> <li>• Measures taken to implement recommendations made by UN human rights mechanisms “to bring its legislation into compliance with international human rights law”.</li> </ul>	<p>The Brunei government responded as follows:</p> <ul style="list-style-type: none"> <li>• That “the realisation of international human rights must be considered in the national context bearing in mind the diversity and different backgrounds we all share” and a reaffirming of “their belief and trust that the United Nations embraces and continues to uphold the sovereign equality of all its members.”</li> <li>• The law neither criminalizes nor has “any intention to victimise” persons on the basis of sexual orientation or same sex relations but “to safeguard the sanctity of family lineage and marriage of individual Muslims”.</li> <li>• That the threshold for evidence for <i>hadd</i> (e.g. amputation and death by stoning) requires two to four <i>alil</i> as witnesses, explaining further that “the standards of piety of the male witness is extremely high that it is difficult to find one in this day</li> </ul>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p>This communication was jointly submitted by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Special Rapporteur on extrajudicial, summary or arbitrary executions</li> <li>• Special Rapporteur on freedom of religion or belief</li> <li>• Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> <li>• Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment</li> <li>• Special Rapporteur on violence against women, its causes and consequences</li> <li>• Working Group on the issue of discrimination against women in law and in practice</li> </ul>	<p>and age, to the extent that convictions of hadd may solely rest on confessions of the offender.”</p> <ul style="list-style-type: none"> <li>• That the prescription of penalties involving death or amputation “are not man-made laws by are ordained by Allah in the Al-Quran and in the Hadiths of the Prophet Muhammad (Peace Be Upon Him), and not be understood as any kind of radicalization.”</li> </ul>
	<p><b>Criminalization of Transgender Women who were alleged to have violated anti-pornography laws in Cambodia</b></p> <p><i>(AL KHM 2/2020; Response of the Government of Cambodia, 31 July 2020)</i></p>	<p>Mandate-holders communicated with the Cambodian Government regarding the arrest of a transgender woman named Morn Eva for the circulation on social media of private videos of a sexual nature. The allegation also included information on two other related issues: the arbitrary arrest of another individual, Ven Rachana, charged under the same law for wearing “sexy clothes” which “violated Cambodian culture”; and of Cambodian Prime Minister Hun Sen’s speech during the meeting of the Cambodian National Council for Women, urging the government to “investigate and take action against women who made and published videos of themselves wearing “revealing” clothes, while live streaming on Facebook and other social media platforms, to sell products, considered “pornographic” because they damage “morality, traditional</p>	<p>The Cambodian government responded as follows:</p> <ul style="list-style-type: none"> <li>• That Ven Rachana had been summoned “in relation to the act of pornography live on social media” and, after again “posting of pornographic videos in an aggressive manner” after supposedly signing a contract promising not to do so, was duly detained and afterwards released.</li> </ul>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p>Khmer women’s values, and Khmer culture.” The charges allegedly under the Law on Suppression of Human Trafficking and Sexual Exploitation of 2008 were not made known by the police officers, and their means of contacting family members was confiscated such that a family member was only able to visit after learning of the arrest from a news report. They also expressed concern about their “physical integrity in view of the allegations that she is denied access to the appropriate and continuous medical treatment she needs in light of her recent surgical procedures,” referring to the hormone replacement treatment they were reportedly undergoing at the time of the arrest.</p> <p>The mandate-holders requested information on the following:</p> <ul style="list-style-type: none"> <li>• Input on the allegations, including the legal grounds of these arrests and their compatibility with the country’s commitments under the ICCPR; measures taken to ensure appropriate legal aid during the process; and measures to ensure their needs as detainees were met.</li> <li>• Measures taken to ensure Morn Eva’s “specific and time-sensitive health needs”, referring to health needs for her recent surgical procedures and hormone replacement treatment.</li> <li>• Measures taken “to prioritize non-custodial measures” in light of the ongoing COVID-19 pandemic.</li> <li>• Measures taken to ensure human rights defenders can carry out their legitimate work</li> </ul>	<ul style="list-style-type: none"> <li>• That Morn Eva had “revealed nudity and prostituted herself on social media” and under both the Penal Code and the 2008 Law on Suppression of Human Trafficking and Sexual Exploitation was detained and thereafter released.</li> </ul>

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Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p>This communication was sent jointly by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Special Rapporteur on violence against women, its causes and consequences</li> <li>• Special Rapporteur on the situation of human rights in Cambodia</li> <li>• Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression</li> <li>• Special Rapporteur on the rights to freedom of peaceful assembly and of association</li> <li>• Special Rapporteur on the situation of human rights defenders</li> <li>• Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> <li>• Working Group on discrimination against women and girls</li> </ul>	
	<p><b>Online harassment and threats done on the basis of sexual orientation and gender identity against a documentary filmmaker from the Philippines</b></p> <p><i>(AL PHL 6/2019)</i></p>	<p>UNSP mandate-holders communicated with the Philippine government regarding the situation of Muslim LGBTIQ human rights defender Rhadem Camlian Morados, who following a series of activities on legal aid for LGBTIQ people in various cities in Mindanao and the screening of his documentary “Lupah Sug” (Eng. “Land of the Brave”) was met with both verbal harassment and threats to his life. Other LGBTIQ advocates with whom Rhadem Camlian Morados worked, though unnamed, were also reported to have experienced similar treatment. The situation, which included visits by unknown persons to his friends and family in his home town asking about his whereabouts, led to his subsequent relocation for fear of his safety. The UNSPs shared that relayed to them suggested that the “Muslim community of Mindanao is allegedly critical of him for being a vocal and open gay Muslim, for empowering members of the LGBT community, and for advocating for anti-discrimination policies in the region.”</p>	<p>The Philippine government has not responded.</p>

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**Engagement of UN Special Procedures with ASEAN Member-States**

Special Procedure Mandate	Type of Document Produced	Issues Raised	Recommendations
		<p>The mandate-holders requested information on the following:</p> <ul style="list-style-type: none"> <li>• Input on the allegations, including measures taken to ensure the safety of the LGBTIQ human rights defender; actions taken to condemn and prosecute the alleged perpetrators of the hate speech and hate crimes; and measures taken by relevant authorities prevent further incitement to violence and discrimination against LGBTIQ people.</li> <li>• Measures taken to ensure LGBTIQ human rights defenders, including LGBTIQ persons of faith, “can operate in an enabling environment and can carry out their legitimate activities without fear of threats, harassment or criminalisation of any kind”.</li> <li>• Measures taken to enact legislation prohibiting discrimination on the basis of sexual orientation and gender identity, including hate speech, hate crimes, and incitement to violence and discrimination.</li> </ul> <p>This communication was jointly submitted by the following mandate holders:</p> <ul style="list-style-type: none"> <li>• Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity</li> <li>• Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression</li> <li>• Special Rapporteur on the rights to freedom of peaceful assembly and of association</li> <li>• Special Rapporteur on the situation of human rights defenders</li> <li>• Special Rapporteur on freedom of religion or belief.</li> </ul>	

## ANALYSIS

### Notable Developments

This time period saw a very significant increase in UNSPs highlighting SOGIESC and its intersections within their respective human rights mandates. In particular, it saw an increase in mandate-holders engaging with ASEAN member-states on LGBTIQ people's issues, both in country visits and in joint communications. In the reports of the IESOGI, there was also an increased identification of information from ASEAN member-states, such as those concerning criminalization in Brunei, legislative reform efforts in the Philippines, the challenging of cultural diversity and its impact on LGBTIQ people in Malaysia, and so on. There was also an increase in recommendations directly referring to SOGIESC, such as the recommendation by the Special Rapporteur on the exploitation of children to Malaysia to amend laws which discriminate against LGBTIQ children in order for these to align with the CRC. Overall, there has been an increased recognition of SOGIESC as a key part of UNSP's respective mandates, and an increased level of engagement by LGBTIQ activists with the mandate-holders as a recognition of its potential role in strengthening international human rights advocacy as they pertain to ASEAN member-states.

### Key Themes

From the joint communications, it was noted that the Special Rapporteurs for freedom of opinion and expression, human rights defenders, and peaceful assembly have been the most active in cooperating with the IESOGI on issues raised with ASEAN member-states. These have involved restrictions on organizing on LGBTIQ people's issues, harassment and intimidation faced by LGBTIQ people or those seen as advocating for their human rights, and the criminalization on the basis of sexual orientation and gender identity. Also active in addressing issues alongside the IESOGI during this period were the the Working Group on discrimination against women and girls (previous known as the Working Group on discrimination against women in law and in practice) and the UNSP on violence against women, as the issues raised in the joint communications both directly involved LGBTI women as well as amplified and reinforced dangerous gender norms and stereotypes. Other mandate-holders engaged in these joint communications when they overlapped with their mandates, such as the Special Rapporteurs for the rights of internally displaced persons, the right to health, the right to privacy, the right to freedom of religion and belief, on extrajudicial and arbitrary executions, and on torture. One country-specific mandate, on the human rights situation in Cambodia, was also engaged in one communication and has made some minor references to the issues faced by LGBTIQ people in the country.

### Notable Gaps

Engagement of specific mandate-holders is generally dependent on which issues are raised to them. While noting that engagement by LGBTIQ activists with the UNSPs is relatively new, the communications during this period have been limited to issues of de facto and de jure criminalization and intimidation and harassment by state forces. For the latter, documentation of such abuse experienced by specific individuals have also been



very limited due to the nature of the situation, the fear of reprisals, and the general lack of support for mitigating the risks of engagement with the mandate-holders. As such, many other human rights concerns as they relate to SOGIESC remain undiscussed. For example, the experience of LGBTIQ activists and communities in ASEAN member-states are also marked by experiences of racism, poverty, and migration, but there is still no engagement with the Special Rapporteurs with mandates on these concerns. Similarly, many LGBTIQ people are also persons with disabilities, live within indigeneous communities, or are part of other minority groups within Southeast Asia, but these have not been well-articulated in the work of those holding mandates regarding these issues. While some of these intersectional issues have been identified in other human rights mechanisms (e.g. the attacks on LBTQ women human rights defenders in the Deep South, within Thailand's combined 6th and 7th report to CEDAW), the relationship of SOGIESC with such issues has not yet been identified within the work of relevant mandate-holders (e.g. Special Rapporteur on human rights in countering terrorism).

### **Advice for engagement**

LGBTIQ activists and other civil society stakeholders can engage in many different ways. These include submitting information to mandate-holders for communications, reports, and statements within the UN system; or engaging directly by requesting country visits, participating in consultations, and meeting with mandate-holders. These engagements allow mandate-holders to better understand and integrate SOGIESC within their respective mandates, and help ensure that SOGIESC continues to be part of the development of international human rights norms and standards.

When engaging with mandate-holders, particularly in terms of providing information that can be used to strengthen the visibility of LGBTIQ person's experiences within the UNSP's respective mandates, a few factors should be considered: the pertinent details of the issues, which should include things such as dates, times, locations, descriptions of the human rights violation, and names and designations of those involved; the laws and policies that are relevant to the issues, such as those which exclude or discriminate against vulnerable groups; and whether, in cases of individual cases involving sensitive personal information, we have the consent of those involved to share this information. Our engagements should also demonstrate how the issues intersect with or relate to the particular mandate (e.g. how discrimination impacts access to clean water).

On issues regarding cases of abuse, violence, harassment, or similar ill-treatment by state actors, also consider that UNSPs cannot ensure the safety of victim/s for whom they may intervene and that the names of alleged victims are usually included in the communication sent to the State for investigation. Acts of intimidation and reprisals against those who cooperate with the UNSPs have also been documented, and so potential risks to one's health and safety should be seriously considered so that measures to mitigate risks can be taken. This might mean holding meetings in private, requesting anonymity in submissions, or not engaging altogether. While UNSPs can respond in various ways to reprisals – such as meeting or communicating with government officials, other stakeholders, UN representatives in the field, or UN bodies such as the Human Rights Council – the principle of doing no harm should always be prioritized.

# NOTES

- 1 ASEAN SOGIE Caucus (2017). Civil society engagement with the UN human rights mechanisms on sexual orientation, gender identity & expression, and sex characteristics (SOGIESC) in Southeast Asia. Retrieved from: <https://aseansogiecaucus.org/news/asc-news/108-new-publication-civil-society-engagement-with-the-un-human-rights-mechanisms-on-sexual-orientation-gender-identity-expression-and-sex-characteristics-sogiesc-in-southeast-asia>.
- 2 ASEAN SOGIE Caucus (2017). The Rainbow in Context: An Overview of the Situation of Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) Persons in Southeast Asia. Retrieved from: <https://aseansogiecaucus.org/news/asc-news/113-new-publication-the-rainbow-in-context-an-overview-of-the-situation-of-lesbian-gay-bisexual-transgender-intersex-and-queer-lgbtqi-persons-in-southeast-asia>.
- 3 For more information on the Treaty Bodies, see: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.
- 4 For more information on the Optional Protocols (OP), see: <https://www.un.org/womenwatch/daw/cedaw/protocol/whatis.htm>.
- 5 For more information on the General Recommendations/Comments, see: <https://www.ohchr.org/en/hrbodies/pages/tbgeneralcomments.aspx>.
- 6 ASC (2017). Policy Brief on the CEDAW and SOGIESC in Southeast Asia.
- 7 For further information on the CEDAW and the CRC in relation to SOGIESC, see: ASEAN SOGIE Caucus (2017). Policy Brief on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and SOGIESC in Southeast Asia. Retrieved from: <https://aseansogiecaucus.org/news/asc-news/111-new-publication-policy-brief-on-the-convention-on-the-elimination-of-all-forms-of-discrimination-against-women-cedaw-and-sogiesc-in-southeast-asia>; and ASEAN SOGIE Caucus (2019).
- 8 Workshop Report: Regional Learning Session on Child Rights and SOGIESC. Retrieved from: <https://aseansogiecaucus.org/news/asc-news/134-workshop-report-regional-learning-session-on-child-rights-and-sogiesc>.
- 9 ASEAN SOGIE Caucus (2017). The Rainbow in Context: An Overview of the Situation of Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) Persons in Southeast Asia.
- 10 Paulsen, E. (13 June 2020). Commentary: ASEAN Intergovernmental Commission on Human Rights ready to become a stronger human rights mechanism. *The Jakarta Post*. Retrieved from: <https://www.thejakartapost.com/academia/2020/06/13/aichr-ready-to-become-stronger-human-rights-mechanism.html>. The press release concerning AICHR's Special Meeting 02/2019 held in November 2019, available on AICHR's official website, provided no substantial information on the issue.
- 11 For more information on the Universal Periodic Review (UPR), see: <https://www.upr-info.org/en/upr-process/what-is-it>.
- 12 Sec. 1.5, ASEAN SOGIE Caucus (2017). *The Rainbow in Context*.
- 13 For more information on the UN Special Procedures (UNSPs), see: <https://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>.
- 14 For information on the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IESOGI), see: <https://www.ohchr.org/en/issues/sexualorientationgender/pages/index.aspx>.
- 15 ASEAN SOGIE Caucus (unpublished). How LGBTIQ Activists in Southeast Asia can Engage with the UN Special Procedures.