

# Criminalisation of Homosexuality

Updated 25 October 2015

Solomon Islands	
	
<p><b>National Law:</b> Laws of the Solomon Island, <i>Penal Code</i><sup>1</sup></p> <ul style="list-style-type: none"> <li>- <b>S160:</b> Unnatural Offences<sup>2</sup></li> <li>- <b>S161:</b> Attempt to Commit Unnatural Offences and Indecent Assaults<sup>3</sup></li> <li>- <b>S162:</b> Indecent Practices Between Persons of the Same Sex<sup>4</sup></li> </ul>	<p><b>Maximum Penalties:</b></p> <ul style="list-style-type: none"> <li>- 14 years' imprisonment</li> <li>- 7 years' imprisonment</li> <li>- 5 years' imprisonment</li> </ul>
<p><u>Treaty Ratification</u></p> <p>CEDAW CEDAW OP CRC ICESCR</p>	
<p>The law is applicable to both men and women.</p>	
<p>Enforcement</p>	<ul style="list-style-type: none"> <li>- Very few reports exist on the Solomon Islands.</li> <li>- <b>2014:</b> The 2014 United States human rights report indicates that there were no recent prosecutions under the country's penal provisions with respect to same-sex sexual conduct, and suggested that the country's laws were generally unenforced.<sup>5</sup></li> </ul>
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> <li>- No recent statements by public figures could be found.</li> <li>- <b>2009:</b> The Leader of the Opposition recommended banning gay people's partners from entering the country, given the country's prohibition on same-sex sexual activity.<sup>6</sup></li> </ul>
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> <li>- <b>2014:</b> The 2014 United States report suggests that there are no reports of violence or discrimination. However, the report adds that stigma may lead to underreporting.<sup>7</sup></li> </ul>
<p>Legislative News</p>	<ul style="list-style-type: none"> <li>- <b>24 March 2015:</b> Voted in favour of a failed Russian draft decision at the UN General Assembly's Fifth Committee (Administrative and Budgetary) that would have had the Secretary-General withdraw his bulletin laying UN staff benefits for same-sex couples<sup>8</sup></li> </ul>

- **June 2013:** The Solomon Islands' Law Reform Commission was provided with terms of references to review the Penal Code and the Criminal Procedure Code, with a view to considering areas such as violence against women and sexual offences, among other things.<sup>9</sup> In June 2013, the Law Reform Commission issued its interim report on its review of part XVI of the Penal Code, which set out a number of recommendations for reform of sexual offences.<sup>10</sup> While the report did not address directly the issue of the criminalisation of same-sex sexual conduct, the Commission did make two relevant recommendations. The first advocated for defining "sexual intercourse" to include oral and anal sex and redefining rape so that it applied to all, thus by implication seeming to permit sexual contact between those of the same-sex if consented to.<sup>11</sup> However, no recommendations were included to repeal sections 160 to 162. The second recommended that the offence of indecent assault be replaced and that 'indecent' be defined '*as meaning indecent according to the standards of ordinary or right minded people, or prevailing community standards. To determine whether conduct is offensive all of the circumstances surrounding the conduct can be considered, including the motive of the accused.*'<sup>12</sup> As a consequence, this may alter the application and interpretation of the offence of gross indecency under section 162.
- **2011:** (UPR) The Solomon Islands did not support recommendations to decriminalise consensual same-sex sexual relations.<sup>13</sup> The Government acknowledged and recognized international human rights standards, but explained that '*it would be too early, within the context of the Solomon Islands, to discuss decriminalizing sexual relations between consenting adults of the same sex. Such an issue would require thorough national consultations to address Christian doctrines and cultural perspectives on the issue.*'
- **2008:** In 2008 the Solomon Islands law reform commission suggested decriminalisation. This suggestion was rejected in light of considerable opposition.<sup>14</sup>

<sup>1</sup> The law is : [www.paclii.org/sb/legis/consol\\_act/pc66/](http://www.paclii.org/sb/legis/consol_act/pc66/)

<sup>2</sup> *Laws of Solomon Islands, Chapter 26, Penal Code, s.160: "Any person who- (a) commits buggery with another person or with an animal; or (b) permits a male person to commit buggery with him or her, shall be guilty of a felony, and shall be liable to imprisonment for fourteen years."*

<sup>3</sup> *Laws of Solomon Islands, Chapter 26, Penal Code, s.161: "Any person who attempts to commit any of the offences specified in the last preceding section, or who is guilty of any and assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for seven years."*

<sup>4</sup> *Laws of Solomon Islands, Chapter 26, Penal Code, s.162: "Any person who, whether in public or private - (a) commits any act of gross indecency with another of the same sex; (b) procures another of the same sex to commit any act of gross indecency; or (c) attempts to procure the commission of any act of gross indecency by persons of the same sex, shall be guilty of a felony and be liable to imprisonment for five years."*

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<sup>5</sup> Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Solomon Islands* (US Department of State 2014)

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236476>>  
accessed on 21 August 2015

<sup>6</sup> Committee Report, *Inquiry into the Facilitation of International Assistance Notice 2003 and RAMSI intervention: Solomon Islands Committee Report No 1*, p. 68 (National Parliament of the Solomon Islands November 2009)

<<http://www.parliament.gov.sb/files/committees/foreignrelations/FRC%20Final%20Report.pdf>>  
accessed 19 July 2014

<sup>7</sup> Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Solomon Islands* (US Department of State 2014)

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236476>>  
accessed on 21 August 2015

<sup>8</sup> Michael K. Lavers, *Bid to block spousal benefits for gay U.N. employees fails* (Washington Blade 24 March 2015)

<<https://www.washingtonblade.com/2015/03/24/bid-to-block-spousal-benefits-for-gay-u-n-employees-fails/>> accessed 25 October 2015

<sup>9</sup> <http://www.lawreform.gov.sb/index.php/our-work/current-references/penal-code-a-criminal-procedure-code>

<sup>10</sup> Solomon Islands Law Reform Commission, *Review of the Penal Code and Criminal Procedure Code: Second Interim Report – Sexual Offences*, (June 2013) <<http://www.lawreform.gov.sb/files/reports/Final-sexual-offences-report-2013-v4-12-June.pdf>> accessed on 21 August 2015

<sup>11</sup> *Ibid* n 7, p. 21-22

<sup>12</sup> *Ibid*, p. 24

<sup>13</sup> UNHRC, *Report of the Human Rights Council on its eighteenth session* (18 November 2011) UN Doc A/HRC/18/2, para 380

<sup>14</sup> Kaleidoscope Trust, *Speaking Out: the Rights of LGBTI Citizens from Across the Commonwealth*, at p. 65 (2013)

<<http://kaleidoscopetrust.com/usr/library/documents/main/speaking-out-lgbti-rights-in-the-cw.pdf>>  
accessed on 19 July 2014