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## General situation of LGBTI people

As one of the poorest countries in the world, and still struggling to reconcile after decades of internal conflict, Cambodia has many obstacles to overcome to achieve democratic governance and human rights. The human rights situation is still not great, but there have been improvements over time. The situation of LGBTI persons is generally better in Cambodia than in many other countries in the region. Cambodia does not experience the same type of state-sponsored aggressiveness towards LGBTI persons as in some other countries in the region and the religious leaders in the country do not condemn homosexuality.

However, Cambodian culture places great value on traditional family values and the social pressure to marry and have children is a heavy burden for LGBTI persons. Reports show that LGBTI persons are exposed to violence, where the abuse range from forced marriages, attempted “cures” for being LGBTI, cure by traditional Khmer doctors/psychologists (Krou Khmer), family rejection and controlling behaviour, resulting in many LGBTI individuals suffering from mental health issues like depression, suicide and self-destructive behaviour.

With widespread corruption, LGBTI persons face the same type of difficulties as other citizens. In addition, they are also targets of extortion related to their LGBTI identities. The most common situation is that LGBTI persons are targeted by the police for financial gain. There are two legal provisions: ‘Human trafficking law’ and ‘Commune and village safety policy’ that have been used to arrest people (mostly transgender and gay men) under false charges and claim a payment (between USD 10 and 30) not to keep them overnight. The police frequently abuse transgender sex workers. UNDP reports that local authorities and police sometimes use various laws to limit the rights of LGBTI people; for example through forced separation of same-sex couples, as per parental request, or linking of LGBTI people with drug use or sex work.

Issues related to LGBTI persons’ living conditions and rights are overall absent from political and media discourse in Cambodia. There are a few cases where LGBTI matters have made it to the public agenda, with officials both speaking in favour and against LGBTI rights.

In recent years, an LGBTI movement has started to form. The first celebration of Pride in Cambodia took place in 2004 and has since become an annual event, attracting visitors from other parts of Cambodia as well as neighbouring countries. In 2012 the Pride functioned as a regional forum for LGBTI movements in ASEAN countries, in connection with Cambodia chairing Association of Southeast Asian Nations (ASEAN) that year. LGBTI activists have continued to work through media advocacy, resulting in regular radio and TV program run by university students. Other programs have taken place within the university and academic spheres. In regular media, LGBTI people are often portrayed in a negative way, particularly transgender women, while some attempts have been seen by some TV channels to address LGBTI-issues in a somewhat better way. Young LGBTI Cambodians use social media and other technology to communicate with each other and share information.

In a report by UNDP on the LGBTI climate in Cambodia it is described how gender and sexuality could be understood in terms less rigid than Western categories of “male” and “female”, and that Cambodian LGBTI people define themselves according to their gender norm rather than sexual orientation. Similarly, society may show disapproval of individuals according to their gender norm rather than an LGBTI identity. In the report it is described how transgender persons frequently are harassed rather because of their appearance and their livelihood as entertainment or sex workers. NGOs and CBOs working with men who have sex with men (MSM) and transgender people do not typically hire LGBTI people as staff.

## Legal and human rights instruments

### Constitutional provisions and legal framework

Same-sex sexual acts are not a criminal offence in Cambodia. However, there is no anti-discrimination legislation or other sanctions for those who violate the rights of LGBTI people. Further, marriage is limited strictly to opposite-sex couples. This definition is also used in the Law on Marriage and Family, where article 3 reads: “marriage is a solemn contract between a man and a woman”, and in article 6: “marriages are prohibited between persons of the same sex”.

The Constitution extends its rights and freedoms to every citizen, regardless of “race, colour, sex... or other status” – a phrasing that can be used in favour of LGBTI persons’ rights, given its intent to provide equality regardless of personal characteristics.

An important accountability mechanism that could be used to forward LGBTI rights is ***The Cambodian human rights committee*** (functional in its present form from 2014) - The committee receives complaints and reports on UN conventions. It is also responsible to respond to the UPR recommendations. So far it has not dealt with LGBTI issues.

UNDP has facilitated the First National Dialogue, to make a dialogue among LGBTI people with some stakeholders to inform each other needs and desires of LGBTI people in Cambodia and the Ministry of Council of Ministers initiated a survey about social exclusion, performed by independent researchers, which mentioned that government system discriminates LGBTI persons, e.g. by not issuing so called Poverty card to LGBTI persons. The UN initiative can serve as a door opener for engagement of other donors.

### Regional and international human rights instruments

In regards to LGBTI rights, generally the ICCPR; CEDAW and ICESCR are of special interest when addressing LGBTI rights. Cambodia has ratified all these and submitted a report on the ICESCR in 2014. It did not raise LGBTI issues.

In 2011, The Human Rights Council adopted a resolution (A/HRC/27/L.27/Rev.1), on sexual orientation

and gender identity and has since addressed LGBTI rights in different forums. This could be used as an advocacy tool.

The Office of the high commissioner for human rights (OHCHR), as a UN body can be useful when bilateral dialogue is difficult or insufficient. OHCHR has a mandate to work with States, national human rights institutions, and civil society. In this way, it is possible to achieve progress towards the worldwide decriminalisation of homosexuality and further measures to protect people from violence and discrimination on grounds of their sexual orientation or gender identity.

There was an attempt to include writings of LGBTI in the ASEAN Human Right’s declaration, a joint declaration by the Governments of the Member States of the Association of Southeast Asian Nations (“ASEAN”). The text passed the draft but was removed in the final version. The ASEAN principles are marked by of non-interference and consensus decision-making and reluctant states can thus have great influence of the final result.

### Sexual and Reproductive Health and Rights, HIV/AIDS and gender based violence

HIV is a key health issue for MSM and transgender women in Cambodia with higher reported rates of infection and risk. UNDP’s report notes that MSM and transgender persons are often treated as a homogeneous group, ignoring their specific needs, but that there has been some progress in policy and among health workers to distinguish between these populations. There is a stigma and discrimination in the health sector towards MSM and transgender persons. There is a need for attention to health issues other than HIV such as gender-affirmation surgery, hormone therapy and the use of medications for gender transition. Transgender persons are particularly vulnerable; due to poor opportunities in the regular labour market, many transgender persons engage in sex work, which contributes to ill health and exposure to HIV. There is a group that works with HIV positive MSM, called CPN+ that receive technical support from Rainbow Community of Kam-puchea (RoCK).

CamASEAN Youth's Future (CamASEAN) is providing human rights and legal right documentation for MSM and HIV activists.

The Reproductive Health Association of Cambodia (RHAC) has a project funded by RFSU that works to support as well to provide sexual reproductive health service for transgender persons. There are 6 MSM NGOs (Men's Health Cambodia, Men's Health Social Service, CSSD, KHEMARA, KDFO, and Bandahn Chaktomok) that work with HIV/Aids prevention and services for the MSM community.

### **Civil society organisations and institutions active in LGBTI field**

**Rainbow Community of Kampuchea (RoCK)** is the first registered and largest LGBTI group in Cambodia. They organise regular meetings with the LGBTI community and also provide legal assistance. They also organise the annual Pride festival in Phnom Penh. RoCK points out some of the more pressing concerns for LGBTI Cambodians: lack of societal/family understanding and acceptance of LGBTI individuals; lack of legal assistance, and lack of priority given to LGBTI cases. Further, they see a lack of understanding and acceptance of LGBTI by service providers in civil society/health sector/education fields. Sweden has already regular contact with RoCK and has also supported the Pride events. RoCK is supported by RFSU.

**CamASEAN Youth's Future (CamASEAN)** is a youth led, non-registered, network that helps out with legal counselling and documents human rights violation of LGBTI persons. The network also does advocacy work towards the government and trains LGBTI activists about human rights and legal rights. CamASEAN is a member of ASEAN SOGIE Caucus (ASC) to promote LGBTI and SOGIE inclusion in ASEAN Human Rights Mechanisms and is one of the founders of ASEAN People Forum Cambodia, which is working with other Cambodian CSOs to strengthen inclusion of LGBTI persons and their human rights.

**Parent & Friends of Lesbian and Gay, FLAG**, is established by a group of university students to advocate for LGBTI friends. They are having monthly

meeting with friends also sharing about sexual orientation, gender identity and gender expression at Universities and High Schools regularly.

**Cambodia Centre for Human Rights (CCHR)** is one of Cambodia's leading Human Rights organisation with capacity to organise consultations, monitor and report on various human rights issues as well as being a strong advocate for human rights, including LGBTI rights. The Centre has engaged in monitoring of LGBTI rights and has published two reports on LGBTI rights in Cambodia. It is a very useful ally. CCHR is supported by RFSU.

### **What Sweden could do – questions to discuss**

According to the Swedish results strategy for the development cooperation with Cambodia (2014-2018), one of the goals is strengthened democracy and gender equality, with increased respect for human rights and freedom from oppression. Within this area, there are many entry points to work with LGBTI rights. Also under the Swedish objective on access to economic growth, education and livelihoods for the poor, there are opportunities to raise LGBTI issues. Presently, discrimination within the labour market is a factor that strongly contributes to the marginalisation of LGBTI persons, and puts them at risk of poverty.

In all Swedish such efforts, it is very important to consult LGBTI organisations in the country to make sure not to overrule their agenda. Questions to discuss:

- Could Sweden do more to stay updated on the situation and the judgements and priorities of the LGBTI movement? Could the UNDP report be used as a source of inspiration for dialogue and programming?
- Could Sweden do more to invite LGBTI organisations to social, cultural and professional events and networks, in order to offer them as much space as they are ready and willing to take (as was done in Vietnam)?
- Could Sweden do more to seek strategic alliances and continue to bring up LGBTI rights in the

dialogue with the government and work with others to support participation of LGBTI people in spaces such as the ASEAN forums?

- Could Sweden do more to support anti-discrimination legislation to protect LGBTI persons and other marginalised groups and to reform the family and marriage law? Could LGBTI issues be included as an important part in anti-corruption and police training programs?
- Could Sweden do more to encourage and support cooperation and synergies between LGBTI organisations and mainstream Human Rights organisations? To encourage mainstream HR organisations, HR institutions and HR reporting processes nationally and regionally to become inclusive of LGBTI rights?
- Could Sweden do more to encourage and support cooperation and synergies between LGBTI organisations and mainstream SRHR organisations?
- Could Sweden do more to include LGBTI organisations in human rights and/or civil society capacity development programmes so that they can improve their effectiveness, networking and outreach?
- Could Sweden do more to include LGBTI persons and the MSM group in supported SRHR initiatives, HIV/AIDS efforts and work with gender-based violence?
- In the dialogue concerning private sector and labour market development, could Sweden do more to bring up anti-discrimination, codes of conduct and labour legislation, with the aim of reducing discrimination against people based on sexual orientation or gender identity?

For further advice on dialogue regarding LGBTI issues, download the [Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#) or the [EU tools](#) referred to in the reference list.

## References

### General references

ILGA, 2014, *State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults* (see updated version at [www.ILGA.org](http://www.ilga.org))

RFSL, *An introduction in how to include LGBTI in programming in development*, [http://www.rfsl.se/public/LGBT\\_in\\_development.pdf](http://www.rfsl.se/public/LGBT_in_development.pdf)

[Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#)

EU news, tools and guidelines: [http://eeas.europa.eu/human\\_rights/lgbt/index\\_en.htm](http://eeas.europa.eu/human_rights/lgbt/index_en.htm)

The EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#).

### References specifically related to Cambodia

Asia Pacific Coalition on male sexual health, *MSM and Transgender engagement in Global Fund New Funding Model Country Dialogue*

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The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, guidance notes have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.