



DIALOGUE ON

**“Law and Public Policies on Cambodian Lesbian, Gay, Bisexual, Transgender, Intersex and Queer
(LGBTIQ) Citizens ”**

27 June 2019

Sunway Hotel, Phnom Penh

SUMMARY REPORT

Co-organized by: Cambodian Human Rights Committee (CHRC), Cambodian Center for Human Rights (CCHR), Rainbow Community Kampuchea (RoCK), Reproductive Health Association of Cambodia (RHAC), and Micro Rainbow International (MRI).

Funding and Technical Support by: UN Women, UNAIDS, OHCHR, Swedish Association for Sexuality Education (RFSU), Bread for the World (BfdW), American Jewish World Service (AJWS) and International Women Development Agency (IWDA).

Total number of participants: 150 participants including 50 LGBT, local authorities, parents, LGBT family members, representatives of relevant ministries, civil society organizations, UN Agencies, youth and student groups, private sector, and the media.

Objectives of the Second Dialogue

- Serves as a platform for state authorities from relevant ministries/institutions and LGBTIQ Community to provide update information about LGBTIQ-related activities since the first dialogue in May 2018.
- Identifies next steps to achieve the review, modification, and development of laws, policies and mechanism to protect LGBTIQ rights.

Context of Protection of LGBTIQ Rights and Freedom

- The Royal Government of Cambodia, headed by **Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia**, continues to make public appeal to end discrimination against LGBTIQ.
- Since 2017, Cambodian Human Rights Committee has involved in annual RoCK's event organized, as expressed through the honorary presence of **H.E Keo Remy**, Delegate Minister to the Prime Minister and President of CHRC, as well as leaders of other general departments and departments.
- Neary Rattanak, the Gender Strategic Plan of the Ministry of Women Affairs, includes LGBTIQ as one of the population at risk to gender-based violence, through coordination and honorary presence of **H.E Nhean Sochetra**, Director of General Department of Social Development and **Mrs. Sar Sinet**, Deputy Director of the same General Department.

Topic 1: Rainbow Family (Marriage, Family, and Child Adoption)



Guest Speakers:

Facilitator: Mrs. Noy Sophary

H.E Lieutenant Duch Dana, Deputy Director and Head of Gender Working Group of Department of Identification, Ministry of Interior

H.E Nhean Sochetra, Director of General Department of Social Development, Ministry of Women Affairs

H.E Katta Orn, Member, Cambodian Human Rights Committee

Mrs. Sem Sengvethai, Head of Department of law and civil code statistic, Ministry of Justice



Key points related to law and policies

- The Kingdom of Cambodia has ratified 8 out of 9 treaties.
- Laws of the Kingdom of Cambodia does not prohibit or condemn LGBTIQ and homosexuality.
- The Constitution does not provide legal status for LGBTIQ couples (partners).
- Note on the use of word “man” and “woman” in the laws and official document.
- Note: only binary sex and heterosexuality are recognized by law.
- The Constitution → Civil Code → Sub-decree on Civil Status
- The above mentioned points are contrary to the Constitution (Article 31) stating that there is no discrimination against any individual
- LGBTIQ shall receive special protection according to the national supreme law and international laws.
- National policies of Ministry of Women's Affairs aims to eliminate Gender discrimination and violence against women including LBT

(Presentation is Attached)

Questions from the Community

- **I live with my partner for 34 years already and we have one adopted child. However, in the family book it is mentioned that we are relatives. Hence, what should I do to make change in the family book in order to recognize both of us as husband-wife and child? this is the child of both of us and we are worried about our child after we die.**
- Family book cannot provide husband-wife status unless there is marriage certificate as an evidence. In addition, the Constitution recognizes legal marriage between a man and a woman. Therefore, LGBTIQ have right and freedom to celebrate their engagement or wedding freely but there is no legal recognition for their marriage issued by Civil Status officers.
- Full adoption is quite complicated for LGBTIQ because it requires marriage certificate. Children can change and use the family name of their adopted parents. Simple adoption requires application to the court and the father or mother shall be 25 years older or above. However, the child cannot change and use the family name of their adopted father or mother.

Questions from Community

- **I have already undergone surgery and transform myself from a man to become a woman. Can I request to change my gender identity on my ID card? How to do it?**
- It is difficult for those who have undergone sex transformation surgery. The process of identification is relevant to legal standard and also relevant to identification of sex from the Constitution.
- It is a problem for LGBTIQ (transsexual and transgender) around the world because there are some requirements to follow to prevent any risk relevant to terrorism and it requires further comprehensive study.
- In the context of legal gaps, individual who suffered from gender-based discrimination should file their application to the court to request for change in their gender identity and identify themselves as having a different gender from their birth gender.) Law enforcement officers can use procedure and Judgment of the court as reference legal documents to modify law or to develop law.

Activity Plans and Implementation Mechanism

Key points of discussion	Next Step	Stakeholders	Time Frame
Reduce and prevent discrimination and violence in the family, community and society	<p>Cambodian Human Rights Committee share the messages of non-discrimination against LGBTIQ to disseminate to youth and families, incorporates to their outreach activities four times per month.</p> <p>Cooperate with the inter-ministries to develop implementation plans for the 11 recommendations in the Universal Periodic Review (UPR) in relation to LGBTIQ rights and freedom.</p> <p>Meet and discuss with representatives of Japanese government and Sweden</p>	<p>Cambodian Committee for Human Rights Ministry of Justice Court Ministry of Interior Ministry of Women's Affairs</p>	<p>August October</p>

Key points of discussion	Next Step	Stakeholders	Time Frame
<p>Ministry of Women's Affairs conducted a national gender assessment focusing on gender-based discrimination which is vulnerable groups including LGBTIQ to identify problems and interventions.</p>	<p>Develop Neary Rattanak fifth strategic plan phase 5 years (2019-2023)</p> <p>Awareness raising for public and family at the sub-national levels</p>	<p>Ministry of Women's Affairs</p>	
<p>Family book, birth certificate and other documents for LGBTIQ families</p>	<p>It is possible that the family book will be eliminated. General Department of Identification will consider this issue further.</p>	<p>Ministry of Interior</p>	
<p>Living a life as a good citizen with dignity</p>	<p>Awareness raising through mobilization and social media network</p>	<p>LGBTIQ network</p>	

Topic 2: School and Employment



Guest Speakers:

Facilitator: Ms. Chan Kunthea H.E Ouch Nipon, Member and Head of Department of Administrative and Appeal, Cambodian Human Rights Committee

Mr. Chum Mom, Deputy of Department of Planning, Statistic and legislative, Ministry of Labor and Vocational Training

Mr. Ly Sokha, Deputy Chief of Legislation Department, Ministry of Education, Youth and Sports.



Findings from the research study conducted by Cambodian Center for Human

Rights

- 63% of 245 people experienced bullying or verbal discrimination, physical harassment and sexual harassment against those students who expressed different gender and gender identity from biological sex and LGBTIQ at school.
 - The speakers who are representatives from Ministry of Education did not agree with the findings of the Cambodian Center for Human Rights in relation to the discrimination at school because the number is too high and it is contrary to the trip visit of the ministry officers claiming that according to teachers and students there is no discrimination. At school, there is only some forms of teasing of LGBTIQ such as slapping the backside or just simple joke at school.
- 21% of 118 people were rejected employment and lose their jobs due to the discrimination against transgender man and transgender women.

(Presentation is attached)

Key points related to laws and policies

- Law on Education, 2007
- Teacher Code of conduct, 2008
- Law on Students Protection at School
- Law on Labor (mentions only about sex)
- Technical Training for high employment opportunity through employment agencies
- National Social Security Fund (covers on employment injuries and health) of employee all over Cambodia
- Specific coordination and monitoring mechanisms for migrant workers

Questions from Community

- **Comment: Bullying or discrimination through some acts of teasing or joking and slapping the backside of someone is not appropriate and may affect the feeling of LGBTIQ seriously; hence, Ministry of Education should takes measures and interventions.**
- **What should be the mechanisms to solve the case happened in Oddormeanchey Province where a transgender woman student who dress up as a woman, is not allowed to go to school. Isn't this affecting his education opportunity?**
 - Submit complaint to the director of school, education office, Provincial Education Department and Ministry of Education in case there is no response.
- **Is it possible for Ministry of Education to change its rule to allow students who are transgender women and Transgender man to dress an uniform according to their gender identified?**
 - This is not allowed due to the internal rules and discipline of the school in relation to school uniform.

Questions from Community

- **What measure should the Ministry of Labor take to ensure that companies provide equal opportunities for transgender women, transgender man by removing the gender-based restriction for staff recruitment?**
 - Staff recruitment is the right of each company. Staff recruitment shall base on the need in their unit or sector. Therefore, Ministry of Labor cannot intervene.
 - In case a company violates rights of employees and do not comply with the Labor Law, Ministry of Labor has an inspection team to find solution according to legal procedures.
- **What measure should the Ministry of Labor take in order for companies to allow staffs to dress according to their gender identified?**
 - Staffs or employee shall comply with the internal rules and regulations of their companies in relation to uniform and dress codes.

Key points of discussion	Next Step	Stakeholders	Time Frame
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Prevent and resolve discrimination, bullying and stigmatization against LGBTIQ at school (In case there is no applicable law and policies regarding LGBTIQ)	<p>Education, awareness raising and sensitization for teachers, and students to avoid any bullying and stigmatization based on sexual orientation and gender identity.</p> <p>In case of discrimination, an individual can file complaint to director of school, office, department and Ministry of education according to the hierarchy.</p>	Ministry of Education, Youth and Sports will raise awareness to the subnational levels (provincial department and schools)	
	<p>Make report of these dialogues and submit to H.E. Dr. Hang Choun Naron</p> <p>Continue to organize this dialogues platform in order for Ministry of Education, Youth and Sports to get involve in thinking and doing for improvement.</p>		

Key points of discussion	Next Step	Stakeholders	Time Frame
Verbal discrimination, harassment and discrimination at workplace	Each Ministry shall take this for discussion for next step	Ministry of Labor and Vocational Training	
There is no clause to discriminate LGBTIQ and there is no mentioning about protection, but in principle it is not allowed to have any discrimination	It is possible to submit complaint to demand for solution if there is any implementation that is contrary to the labor law		
Job announcement requires applicants to be male or female	There is no law to protect people of third gender (transgenders) therefore, it cannot be mentioned in job announcement.		
People can dress without any restriction if there is no requirement about uniform but if it is a requirement this must be complied with.	It is possible to file complaint to union, Ministry of Labor, labor inspector (companies shall accept workers without any condition).		

Key points of discussion	Next Step	Stakeholders	Time Frame
	<p>Continue to implement the Labor Law and other three keys policies of Ministry of Labor and Vocational Training provided for people for free of charge without any discrimination based on sexual orientation, and gender identity of LGBTIQ</p>	<p>Ministry of Labor and Vocational Training</p>	
	<p>Cooperate with the inter-ministries to develop implementation plans for the 11 recommendations in the Universal Periodic Review in relation to rights and freedom of LGBTIQ.</p>	<p>Cambodian Human Rights Committee</p>	

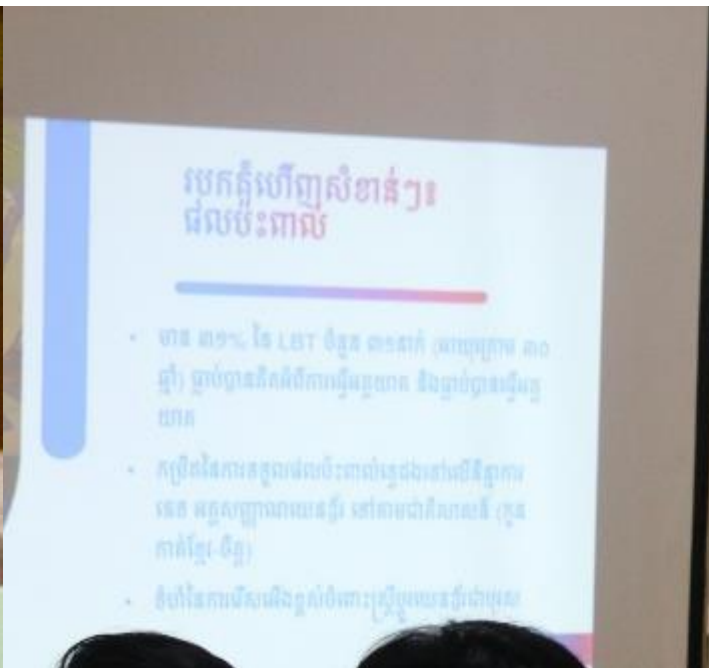
Topic 3: Domestic Violence



Guest Speakers:

- H.E Sreang Chenda, Member and Head of International Human Rights and U.N Department, Cambodian Human Rights Committee
- Mrs. Sar Sinet, Deputy Director of General Department of Social Development, Ministry of Women Affairs
- H.E. Gen. Sok Ngy, Deputy of Department of Anti Human Trafficking and Juvenile Protection, Ministry of Interior

Facilitator: Ms. Soung Soksophea



Finding from the research study conducted by an independent researcher for RoCK

- 81% of 61 peoples (LGBTIQ including lesbians, bisexual, transgender man) under 35 years old suffer from domestic violence including: 1) emotional, 2) physical, 3) sexual, and 4) economic violence).
- Domestic violence by parents, sibling and relatives against lesbian, is due to shame

(Presentation attached)

Key points of law and policy issues

- International treaties including the Universal Declaration on Human Right and CEDAW contribute to promote equitable and non-discriminatory principles with special focus on violence against women.
- The Constitutional Council decision in July 2007 stating that international human rights laws shall form a part of the national law that require judge and prosecutor to review and consider all such treaties where Cambodia is a state party and has ratified them when they interpret the laws.
- Neary Rattanak Strategic Plan of the Ministry of Women's Affairs focusing on women or victims of domestic violence
- National Action Plan to Prevent Violence against Women, Phase 2 (Ended) and phase 3 (collecting issues and requirements need through gender assessment) provide protection and services with an aim to prevent discrimination.
- the Law on Anti-Domestic Violence and Victim Protection 2005 (Article 2 refers to violence against father, mother, children and dependent family members residing under the same roof). In case of gender-based on violence against LGBT partners, they are not cover within the jurisdiction of this law.
- The Criminal Code

Questions from Community

- **In case of a biological mother restrict movement of their child with an aim to prevent that child from living a life as a transgender, is there any method or solution beside filing a complaint? (The child does not want to file a complaint because they do not want their mother to have legal responsibility with a consequence to be charged for illegal confinement of a person and the child want to have full rights and freedom to live their own life)**
 - The best solution is to discuss, try to explain to the parents in a peaceful manner, to ensure understanding about current trend of human rights and that there is no discrimination of any form against any person in Cambodia.
 - Identify individuals who have influence on the father or mother in order to ask for their intervention or for them to explain to our parents
 - Behave as a good person to show the parents that you are capable of controlling and supporting your own life.
 - Find support from authorities and request for alternative dispute resolution without imposing any punishment against the parents.
 - In case the parents restrict the movement and prevent the child from having freedom, they shall be punished for illegal confinement of a person and authorities can advise the victim to file complaint to authorities anywhere or may file complaint to the Anti-Human Trafficking Department in the Ministry of Interior .

Questions from Community

- **What should be the effective measure for gender dissemination through TV, radio and social media such as Facebook? What roles do international communities have to support Cambodia in the promotion of gender rights?**
 - Raise awareness of individuals to understand the importance of media. Ministry of Women's Affairs is looking for approaches to ensure that the awareness raising reach the people at grassroots levels (Neary Rattanak Radio, short video clips, educational animation videos, discussion panel, quotes of parents words).
 - Financial and technical support to organize discussion and research on violence against women from gender experts in relation to violence against lesbian conducted by UN Agency and other national/international organizations.
- **Request relevant institutions especially the Ministry of Women's Affairs to disseminate about existing mechanism and policies of the Ministry to people at the local level to build clearer and broader understanding.**
- **Mainstream gender (sexual orientation, gender expression, gender identity and gender-based violence) to legal and psychological counselors so that they have better knowledge in relation to their professions.**

Questions from Community

- **What laws should be applied in the case of dispute between LGBTIQ couple or partners that lead to relationship break down, as currently there is no law for LGBTIQ couple? How to divide assets? What protection does a victim entitled to?**
- Follow the Law on Prevention of Domestic Violence and Victims Protection (Article 2, point 3) and the Criminal Code, articles related to violence because there is no law to recognize them as spouse or de facto spouse.
- Legal protection: 1. Victims of violence can ask for intervention 2. Request for administrative protection measures at the commune levels 3. Request for restraining order from court (Article 25).
- File a complaint to the court to request for the division of asset but not to request for a divorce or division of children because this part shall be under the Civil Code. In case one of the parties do not agree to the divorce, they can look for intervention from village and commune authorities to conduct mediation.

Key points of discussion	Next Step	Stakeholders	Time Frame
<p>Reduce and prevent discrimination and domestic violence through better gender understanding (sexual orientation, expression and gender identity)</p>	<p>Organize dissemination session to promote understanding at village and commune levels for parents to recognize their LGBTIQ children or those with gender identity and gender expression different from what they have from birth)</p> <p>National media to sub-national media levels (village, commune/Sangkat)</p>	<p>Ministry of Women's Affairs</p> <p>LGBTIQ communities</p>	<p>National and international Days</p>
	<p>Cooperate with the inter-ministries to develop implementation plans for the 11 recommendations of Universal Periodic Review in relation to right and freedom of LGBTIQ.</p>	<p>Cambodian Human Rights Committee</p>	



Media coverages

Radio RFI :

1. http://m.km.rfi.fr/cambodia/LGBTQ-law-could-have-set-if-only-27-06-2019?fbclid=IwAR1-OgxNg3OcSJ3luS3X5Dq481oIFHK4rXYWeibKQZ_pMe-Yyn6H_BmTQE
2. <http://km.rfi.fr/cambodia/daily-event-28-06-2019>

Khmer Time:

https://www.khmertimeskh.com/50618681/%E2%80%8B%E1%9E%9F%E1%9E%A0%E1%9E%82%E1%9E%98%E1%9E%93%E1%9F%8D%E2%80%8B%E1%9E%A2%E1%9F%92%E1%9E%93%E1%9E%80%E2%80%8B%E1%9E%9F%E1%9F%92%E1%9E%9A%E1%9E%A1%E1%9E%B6%E1%9E%89%E1%9F%8B%E2%80%8B%E1%9E%97/?fbclid=IwAR1GcoheiKQc1r3qrUT_DfySlZwvMJD1nkc0wlJVNTxw7J3aas6Whtz6Vs

Thmey Thmey: <https://www.thmeythmey.com/?page=detail&id=79844>

Fresh News : http://freshnewsasia.com/index.php/en/localnews/126199-2019-06-27-07-44-20.html?fbclid=IwAR1x4RTGjTpz5n3RfpOH5zu4n4rD_8vLCEv_qv4K3piCzQdQWBHZ8zPbkuo

Gay Star News : <https://www.gaystarnews.com/article/lgbt-cambodians-meet-with-govt-demand-change/#gs.mb3zsa>

Phnom Penh Post : <https://www.phnompenhpost.com/national/govt-promises-support-LGBT-community?fbclid=IwAR0doyo5yN3nixlqz-poAsv68bv7XpeY3eOQZEAhKF7iRm2ylySP3pobLDuA>