

**Fact Sheet:** Fundamental Freedoms Series: Freedom from Discrimination: LGBT People



**Fundamental Freedom:** Freedom from discrimination

**Snapshot:** While the Kingdom of Cambodia (“Cambodia”) has not enacted an anti-discrimination law, freedom from discrimination is protected under both domestic and international law. However, lesbian, gay, bisexual and transgender (“LGBT”) people are not specifically protected, and continue to face discrimination in practice. As a result, they are further marginalized, which in turn acts as a barrier on their participating in the country’s social and economic development.

## Introduction

To mark the start of international Pride Week 2012, the Cambodian Center for Human Rights (“CCHR”) this week takes a look at discrimination in the context of LGBT people in Cambodia. Freedom from discrimination is a fundamental human right which allows everyone to express themselves and live their lives free from fear, violence and human rights abuses. This fact sheet outlines the degree to which freedom from discrimination is protected under domestic and international law, highlights how LGBT people suffer discrimination in practice, and provides some recommendations as to how discrimination could be further combatted. CCHR is a leading, non-aligned, independent non-governmental organization working to promote and protect democracy and human rights – primarily civil and political rights – throughout Cambodia.

## Freedom from discrimination – domestic and international law

The right to freedom from discrimination is protected under Cambodian law. Article 31 of the Constitution of the Kingdom of Cambodia (the “Constitution”) provides that “[e]very Khmer citizen shall be equal before the law, enjoying the same rights and freedoms and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.” Many minorities, such as ethnic minorities, are thus covered by the Constitution; the rights of LGBT people, however, are not explicitly protected.

Article 31 of the Constitution states that Cambodia shall recognize and respect the Universal Declaration of Human Rights (the “UDHR”) and the covenants and conventions related to human rights, thereby incorporating the UDHR and the International Covenant on Civil and Political Rights (the “ICCPR”) into domestic law. Article 2 of both the UDHR and the ICCPR, the latter of which Cambodia ratified in 1992, provide for the universality of rights “without distinction of any kind”, before listing various explicit grounds on which equal rights should not be denied. Moreover, Article 26 of the ICCPR provides for equal protection by the law against discrimination, while Article 7 of the UDHR affirms the right to protection against discrimination (albeit without listing possible grounds). As with the Constitution, nowhere are sexual orientation and gender identity listed as possible grounds, affording LGBT people protection only by virtue of the vague term “other status”.

## The reality of discrimination against LGBT people

Cambodian society – with its patriarchal structure, traditions, cultural stereotypes and social attitudes – has historically allowed LGBT people to be seen as inferior, subordinate, or of lower status, thus justifying the social exclusion and discriminatory treatment of LGBT people in communities and society. LGBT people face: (1) discrimination from their families, who fear social stigma as a result of their coming out; (2) bullying at school and in the workplace; (3) discrimination from employers in relation to work and other opportunities; (4) hate crimes, including violent attacks; and (5) arrest and other abuses from law enforcement agencies such as the police.

Furthermore, misuse of shadowy policies such as the 2010 Village Commune Safety Policy (the “VCSP”) has reportedly increased discrimination against LGBT people in some areas of the country, especially towns and cities: LGBT people are routinely harassed by police, told to move on from social meeting places such as parks, and even arrested until they pay bribes to be released. Many LGBT people who are denied jobs are often forced into the sex industry out of desperation, especially if they have already been ostracized by their friends and families and have no other means of support. While the Cambodian LGBT movement is steadily gathering momentum, expanding its networks and attracting increasingly positive publicity, there is still a lot to be done before LGBT people can be said to be treated equally to others and to have equal access to their human rights.

### **Access to remedies: anti-discrimination legislation**

A good start towards ensuring equality for LGBT people would be to amend the Constitution so as to explicitly recognize sexual orientation and gender identity as possible grounds for discrimination, thereby granting LGBT people the same recognition as other minorities who suffer discrimination. Cambodia also needs specific legislation that targets discrimination generally, *i.e.*, an anti-discrimination law, which would: (1) explicitly recognize LGBT people – as well as other minority groups – as targets of discrimination; (2) re-state their rights to equality and protection from discrimination as per the Constitution, the UDHR and the ICCPR; and (3) prescribe criminal sanctions for those individuals, companies or public bodies continuing to pursue discriminatory policies or actions against LGBT people. Cambodia should also incorporate the Yogyakarta Principles (principles on the application of international human rights law in relation to sexual orientation and gender identity) into Cambodian law. Furthermore, as per CCHR’s January 2012 [Fact Sheet](#), the VCSP should be reconsidered, and a proper and transparent law enacted by the National Assembly so as to ensure that the rights of the Cambodian people – including LGBT people – are properly protected.

Lastly, the Association of South-East Asian Nations (“ASEAN”) Declaration of Human Rights (the “ADHR”) – effectively a regional bill of rights – will be ratified in November 2012. In its role as ASEAN Chair, Cambodia is in a strong position to prioritize and advocate for the inclusion of terms to protect minorities who face discrimination, including LGBT people. Some ASEAN members have tried to push for such protections; but other more conservative members have put up strong resistance. Cambodia should take a lead on this issue, and aim to find a solution, perhaps a compromise between ASEAN’s appearing to promote LGBT issues – which is what those members that are resistant to any mention of sexual orientation and/or gender identity seem most afraid of – and recognizing that there are LGBT people all over ASEAN, and that they are entitled to be treated equally to others and to feel safe and free from discrimination, violence and human rights abuses.

### **Conclusion**

Discrimination against LGBT people in Cambodia is not as bad as it used to be, nor as bad as in other parts of the world. Yet there is a long way still to go, and much that the Royal Government of Cambodia can do to accelerate the process, particularly setting out a clear policy on LGBT issues. While following the above recommendations will not solve LGBT discrimination automatically, it would set a strong example for the country and the region, to the benefit of all concerned.

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