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Cambodian Youth Perspectives

Edited by

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Chapter 17 | Cambodia's Race to Marriage Equality and Inclusiveness for LGBTIQ Community

Soriya THEANG

Future Scenario

A Letter to My Late Grandma

20/May/2040

Dear Grandma,

How have you been, Grandma? I am doing fine. I don't know what would have happen to me if it was not for you pushing the LGBTIQ agenda in our country. I remember you saying: "I want to leave this world better than when I found it, for the sake of my kids, grandkids, and the next generation". Today, my partner and I get an official adoption letter for our son, Reaksmey. He is 5 months old. Oh, I haven't told you about my marriage yet. We got married one year after our country legalized marriage equality. That day was a memorable and unforgettable moment for us. This wouldn't be true if the Declaration of Family Relationships (DoFR) was not implemented nationwide, which paved the road for marriage equality.

I also want you to know that every year, Pride Week is celebrated with the involvement of our singers, actresses and actors, other celebrities, monks, and important people in the country. While some keep their identity private and among close friends, which we should respect, others come out to create visibility, which makes more people aware that LGBTIQ people are our friends, relatives, colleagues, and neighbors – and look the same as everybody else. This has long created an environment where differences and diversity are normalized.

However, you always said that a force of backlash would remain regardless, but now we have anti-discrimination laws in place to protect us. Also, our government introduced social protection policies for marginalized LGBTIQ people such as my partner. This is an as-good-as future for us. Grandma, I want you to know that we are so proud of you and others before us who have paved the road for the LGBTIQ struggle and created this future for us. Thank you so much, Grandma.

Love,
Sora

Introduction

Marriage equality is believed to be key to normalizing homosexuality and as a result can reduce stigma, poverty, self-harm, and other problems within the lesbian, gay, bisexual, transgender, intersex, or queer (LGBTIQ) community or queer community because “[i]t could bring the essence of gay life – a gay couple – into the heart of the traditional family (Sullivan, 1996, p. 184). Mainstream LGBTIQ communities are more likely to view marriage as central to achieving full equality, attributing this pattern to a desire to ‘just be normal’ by mimicking the historically heterosexual practices (Atkins, 2010). However, the LGBTIQ community is divided on this argument with others believing that this act of pursuing formal equality is just to blend in; marriage is an attempt to conform to heterosexual society (Jacobs, 2017). Another argument is that marriage equality rather than the celebration of difference became the main goal of LGBTIQ mainstream. For instance, in the Netherlands, where the initial public sentiment of marriage equality failed to embrace different forms of social categorization such as race, class, education, etc. (referred to as intersectionality), the country is again divided on the topic of homosexuality. The LGBTIQ Muslim community living in the Netherlands was oppressed as a result when the “Islamic community” were painted as illiberal and premodern by the Dutch’s nationalist groups (Duyvendak, 2016).

Nevertheless, marriage equality particularly same-sex marriage, remains an important issue, both in Cambodia and around the world. By mid-2021, there were twenty-eight countries that had legalized same-sex marriage, of which Costa Rica was the latest in 2020 (CFR Staff, 2021). In Asia, Taiwan is the first and only country to legalize same-sex marriage and did so on 24 May 2019 (Steger, 2019). That means Cambodia has not yet done the same thing. Prime Minister Hun Sen said that “Cambodia is not ready yet to create legislation to allow same-sex marriages because the issue is still causing controversy in some countries” (Pech, 2019). However, is Cambodia really not ready to join this race towards equality? What could it take to make Cambodia ready for this future? What should Cambodia be looking at beyond marriage equality?

This chapter will explore these questions. The first section analyzes LGBTIQ discourse in Cambodian society, culture, religion, politics, and law, creating space for discussion in the next section. In the second part, the current status of the above dimensions is examined to produce strategic paths to realize inclusivity and equality as the goals of LGBTIQ movements. This chapter aims to contribute to the Cambodian LGBTIQ movement who have faced many obstacles in a race towards equality and inclusiveness while learning from their own experiences and others.

Context Analysis

LGBTIQ Discourse in Cambodian Society and Culture

Diverse practices in sexual orientation and gender have existed in Cambodia for a long time. These practices were an integral part of Cambodian history, including the colonial period and globalization of LGBTIQ identities, establishing complex and unique socio-cultural dynamics within the Cambodian LGBTIQ community. For example, during the Angkor Era, a Chinese observer who visited Cambodia between 1296 and 1297 noted that there were many pubescent boys involved in sexual relationships with older men. The boys would hang around every day in the market, trying to engage Chinese men in return for gifts (Daguan 2007). This shows that practices of sexual orientations and genders are not a foreign import. During the French colonial period however, a strict gender binary was imposed. Edwards (2007) notes that in the earlier 19th century, the hairstyles and clothing of Cambodian women and men were almost identical. Yet, such practices were subsequently gendered by the colonial efforts to define a national style. By the 1940s, a clear binary in male/female clothing and hairstyle emerged under the French Colonial Rule as the authentic Khmer Style.

The globalization of LGBTIQ identities through the advancement of communication technologies and pop culture has driven individuals to increasingly identify with and embrace LGBTIQ identities. The internet, social media, and smartphone technology have changed the landscape of the LGBTIQ community. There are increasing numbers of Cambodian youth networking on social media platforms such as Twitter and Facebook, with one LGBTIQ group containing over 31,600 members, and other sites offering rights-based information (Hoefinger and Srun, 2017). Social media networking can help to end some of the social isolation young LGBTIQ people often experience. Pop culture also contributes to this process, such as social campaigns, music, TV shows, books, fashions, and so on. Pride Week, for instance, has been celebrated in Cambodia since 2003 and started to explicitly champion equality, rights, and freedom of LGBTIQ people (RoCK, 2021).

However, the globalization of LGBTIQ identities has not resulted in a straightforward replacement of the 'local' by the 'global'. In rural areas where LGBTIQ people have had little or no exposure to globalized LGBTIQ discourse, they retain their unique way of articulating their gender, by just referring to each other using masculine/feminine familial terms such as bong/p'oun pros/p'oun srey (older/younger brother/sister), pou (uncle), ming (aunt), and taa (grandfather), or yeay (grandmother) (de Brun, 2019, p. 30). Similarly, one LGBTIQ activist noted during her Sexual Orientation and Gender Identity (SOGI) training in rural areas that "the older generation just says, 'I am a man', not a 'trans man', except for a couple of activists who have been around SOGI training for years" (p. 32). In this postcolonial context, the unequal power

relations between foreign development workers and educated, urban Cambodian activists on one hand, and rural Cambodians who have had little or no exposure to LGBTIQ discourse are witnessed. LGBTIQ people living in rural areas experience different lives, difficulties and thus have different needs from people in urban areas. From a young age, those who are seen to rebel against gender norms pay a high price in discrimination, bullying, and harassment in school (CCHR, 2015, p.22). In both urban and rural areas, accessible mental health services for LGBTIQ-identified individuals are extremely limited and usually cost-prohibitive. Beyond health-related needs, there is also a lack of attention to housing and homelessness, unemployment, and other social, economic, and emotional needs, such as hunger, poverty, family conflict, and mental health issues (UNDP, 2014). Additionally, the immediate family members of people in the LGBTIQ community are often those who cause the most difficulties such as forcing them to enter into heterosexual marriage; some decide to give in, conform and marry, or rebel and risk being cast out by family (CCHR, 2010, p.5) because they have been treated as “ill” or “other”.

LGBTIQ Discourse in Cambodian Religion and Culture

Buddhism, as practiced in Cambodian culture, indirectly condemns homosexuality. For example, the Chbab Srey, a poem that lays out a traditional code of conduct for women, not only hinders progressive feminist causes in Cambodia but also influences LGBTIQ Cambodians. In the context of the Chbab Srey, a prescribed punishment for failing to adhere to the standards of a properly subservient Khmer wife is to be reincarnated as a khteuy — or gay in English. Verses 168 – 186 of Chbab Srey says:

“As for the ‘enemy wife’, she is [...] not afraid of her husband; if he gives her an order, she does nothing [...] Those who follow these ways and do not wish to reform when their lives are ended, they fall into the four hells, where they will endure misery and suffering. Delivered from there, they will be reincarnated as khtuey” (Jacobsen, n.d, p.21).

This negative invocation depicts people defined as ‘khteuy’ as the ultimate ‘bad Khmer woman’ who in the last life committed bad deeds and thus was reborn as “khteuy” due to that person’s karma. In Buddhism’s law of Karma, Karma has implications beyond one’s current life; bad actions committed by a person in the current life can follow the person into the next life and punish that person as a result (BBC, n.d.). A survey conducted by Rainbow Community Kampuchea (RoCK) in 2015 found that 53 percent of ‘straight’ Cambodians believe (bad) karma from a previous life is responsible for people ‘becoming LGBT’ (RoCK, 2015, p.48). Such a belief is created as a disciplinary mechanism to ensure adherence to rigid and oppressive gender norms.

Religion is usually cited worldwide as one of the causes of homophobia, both social and internalized (Barnes and Meyer, 2012). Comparatively however, Western monotheisms including Catholicism, Protestantism, Judaism, and Islam exhibit more rejection of homosexuality than Eastern religions such as Buddhism and Hinduism (Larson, 2010). Despite non-consensus on the religion's views on homosexuality, the relative homosexual friendliness of Buddhism arguably reflects Buddhist's teachings on equality, proper interpretation of precepts, and the identification of essence and manifestation (Cheng, 2018). In the fourth step of Buddhism's philosophy of the Eightfold Path to enlightenment, which forbids unlawful sexual acts — rape, sexual harassment, molestation of children, and unfaithfulness to one's spouse, there is no distinction between homosexual or heterosexual behavior and mentioning of homosexual-specific prohibitions (CCHR, 2010).

Despite this, the Dalai Lama told BBC that “I am a Buddhist and, for a Buddhist, a relationship between two men is wrong. Some sexual conduct in marriage is also wrong” (BBC, n.d). On the other hand, some monks in Thailand hold a different stance. One monk said “Treating LGBT people badly goes against the Buddha's teachings. LGBT people are also humans, they are also Buddhists, and as a monk, I support and accept all Buddhist people, and aim to reduce their suffering” (Rina, 2020). Such positive support of homosexuality from Buddhist leaders has been shown in Cambodia as well. Since Pride 2012, Rainbow Community Kampuchea (RoCK) has organized Buddhist blessing ceremonies, in which large numbers of the queer community gather in a pagoda along with their partners and families. At the ceremonies, senior monks bless queer partnerships, generally accompanying the blessings with sermons on Theravada Buddhism's queer-friendliness (Meas, 2012).

LGBTIQ Discourse in Cambodian Politics

Since the introduction of the United National Transitional Authority for Cambodia (UNTAC) to Cambodia in 1992, there have been influxes of development aid along with international non-governmental organizations (INGOs) and a growing number of local non-governmental organizations (NGOs), making Cambodia one of the most NGO-dense states in the world (Hughes, 2009). This period marked the arrival of new approaches such as human rights and gender mainstreaming, brought by NGOs and INGOs (Frewer, 2013, p. 103). This coincided with attention being paid to the LGBTIQ community, especially when NGOs started to respond to Cambodia's HIV/AIDS epidemic at the time (de Brun, 2019). In the 2000s, NGOs working on HIV/AIDS began to adopt a more holistic approach to HIV prevention and eventually embraced an LGBTIQ rights-based approach as a key strategy to combat HIV infection (p.19). In contrast to earlier efforts by Pride Week that focused on HIV prevention, it was not until 2009 that a group of Cambodian NGO staff and foreign development volunteers came together to organize an inclusive Pride

celebration that explicitly spoke in terms of equality, rights, and freedom (p.20). During this period, LGBTIQ rights discourses rose to prominence in Cambodia “mov[ing] from being on the complete margin, or even absent, to the center of international development politics in the last decade” (Klapeer, 2018, p.3).

LGBTIQ rights became more visible among development partners in 2017 when Cambodia’s Supreme Court dissolved what was at the time the country’s only viable opposition party, the Cambodia National Rescue Party (CNRP). Donors, who have sought to remain engaged in Cambodia and maintained relations with the government, have looked to less sensitive human rights issues to support, of which LGBTIQ rights was one (de Brun, 2019, p.22).

Prior to 2017, the legalization of same-sex marriage had already become a hot topic among politicians. Several political parties had promised to legalize same-sex marriage if they won the 2018 election (Power, 2017). The largest non-ruling party the CNRP said it would run a referendum on the issue. Other parties said they would respect what the people wanted while the ruling Cambodian People’s Party (CPP) said it had no plans to make marriage equal, but confirmed the government would consider the issue if a formal request was made to do so (Power, 2017).

Now that the CPP effectively dominates Cambodian politics, it is up to political elites to push this agenda forward. Notably, in 2004, the late King Norodom Sihanouk made a statement in support of same-sex marriage as did King Norodom Sihamoni (Pann and Hunt, 2017). Princess Norodom Soma also published a 2012 editorial in the Phnom Penh Post titled, Being Gay is Not Wrong. On the other hand, in 2007, Prime Minister Hun Sen disowned his adopted daughter for being a lesbian (Reuter Staff, 2007). Lately, however, in February 2019, Prime Minister Hun Sen said Cambodia was not ready to legalize same-sex marriages but appealed to the public to not discriminate against LGBTIQ people (Pech, 2019). In an interview about the introduction of a new life skills course covering topics such as sexual health, gender-based violence, gender identity, and combating discrimination against the LGBTIQ population into grades 10 and 11, a gender specialist from UNDP said: “key senior officials from the government ... have been very supportive of LGBT people” (Maza, 2017). This progressive LGBTIQ discourse is also beginning to influence the legal sphere as well.

LGBTIQ Discourse in Cambodian Law

Legally, same-sex marriage is banned by the Constitution (Article 45) which states that “Marriage shall be conducted according to conditions determined by law based on the principle of mutual consent between one husband and one wife” and the Law on Marriage and Family (Article 3) which states that “A marriage is a solemn contract between a man and a woman in a spirit of

love in accordance with the provisions of law". In practice, however, many cohabiting same-sex couples or rainbow couples (an umbrella term used to describe couples with two partners of the same sex, or in which one or both partners identifies as transgender) across Cambodia already live as spouses, while some conduct unofficial wedding ceremonies (CCHR, 2017, p.vi). Among those couples, about one-fifth have received important legal recognition in the form of family books¹ by local authorities, where they were classified as husband and wife (39.13%) or siblings (21.74%), or one as the head of the family (13.04%) (CCHR, 2017, p.12). Notably, this has happened in a few locations while in other places such as Phnom Penh the practice does not exist.

In terms of adoption, the Cambodian Civil Code establishes that full adoption is only available to married couples, effectively denying full adoption rights to rainbow couples. In the case of same-sex couples, one member can adopt a child but this process leaves the family lacking essential legal protections. However, despite the lack of an enabling legal framework, Cambodia's Rainbow Families report (CCHR, 2017) showed that many currently co-habiting rainbow couples across Cambodia (32.71% of those interviewed) already have children in their care, of which 67.64 percent are based on simple adoption or informal agreements, with many couples stating that they have adopted family members such as nieces or nephews (40%) (p.27). Among rainbow couples who have adopted a child, a significant proportion (45.71%) had a family book, compared to couples who have not adopted a child (9.71%) (p.vi).

The example of adoption, in addition to revealing the significant disparities between real practices and supposed legality regarding the availability of family books, indicates the inconsistent interpretation and application of the law. This can however work to the advantage of the Cambodian LGBTIQ community because it opens up spaces for them to negotiate improvements to their lives beyond the narrow formalism of legal equality. This can explain why the Declaration of Family Relationship (DoFR) advocated by Rainbow Community Kampuchea (RoCK) has gained popularity. The Declaration of Family Relationship is "a private contract form that states about the love relationship and commitment of Cambodian LGBTIQ couples" (RoCK, 2018), just as marriage does for heterosexual couples. RoCK has helped introduce the DoFR to 50 communes in 15 provinces around Cambodia where it has been accepted and supported by local authorities (Power, 2018).

Positive steps have also been made by the Cambodian government lately. In June 2019, the Cambodian government accepted all nine SOGI-related recommendations made in the course of

¹ A document issued by local authorities used to identify members of the family with Khmer nationality and blood relationship of each family including spouse, their own blood children or adopted children (Royal Government of Cambodia, 1997)

its second Universal Periodic Review (UPR) at the Human Rights Council (HRC) in Geneva, including the adoption of a same-sex marriage law, a gender recognition law, and an anti-discrimination law (ILGA, 2020, p.285). Considering the nation currently holds to a rigidly defined gender binary, it is a move that may prove more palatable to the broader public in the short term while still falling far short of full acceptance of LGBTIQ marriage.

Policy Recommendations

- De-politicization of LGBTIQ rights:

These positive developments, however, raise concerns over the future of the movement when LGBTIQ rights are being made into a political struggle between political parties as well as between government and non-state actors. A Cambodian LGBTIQ activist said “...as more donors and NGOs focus on LGBT rights, the movement’s narrative becomes more difficult to control: ‘LGBT issues could become hot’, i.e. politically sensitive in the eyes of the government and thus vulnerable to backlash and state repression” (de Brun, 2019, p.23). Considering this, Cambodian LGBTIQ activists must navigate this highly fraught landscape. A strategic path forwards should be “staying rooted in the communities through our membership, understanding local concerns in the provinces, and building trust with local authorities” (de Brun, 2019, p.23). Maintaining independence from all the political parties is necessary for progressing LGBTIQ activism including achieving the legalization of marriage equality. Sexual orientation and gender identity should not be made into a partisan political issue.

- Extension of DoFR for short-term interest:

Despite having escaped significant repression compared to other movement groups such as environmental issues or land disputes and having built up the movement to this level, queer politics is still vulnerable to co-option by political elites and also to pinkwashing following recent government positivity concerning LGBT rights. However, such a situation could turn the table to the advantage of LGBTIQ activism. In Thailand, which is known as “a tourist haven for same-sex couples” (Yongcharoenchai, 2013), the Thai government has employed an active “pinkwashing” strategy, in which LGBTIQ rights are deployed to gloss over other negative aspects of the current political regime and to serve as good international public relations. In line with this strategy, the Thai government introduced a draft bill in support of same-sex unions in an attempt to secure support for the election (Villadiego, 2018). This illustrates how the recognition of LGBTIQ rights can be used to further the political interests and motives of the regime in power which is similar to the situation in Cambodia. Thus, there may exist an opportunity to progress LGBTIQ discourse in Cambodia by first advocating for the nation-wide implementation of the Declaration of Family Relationships (DoFR) prior to taking a bigger step to legalize same-sex marriage and enact anti-discrimination laws. RoCK can continue to work with lawyers and other local authorities who

have not yet adopted the DoFR while seeking legal support for the initiative from the central government.

- **Promotion of Respect and Acceptance of Diversity and Differences:**

While it is important to create an environment which penalizes discrimination it is also critical to create a society which promotes respect and acceptance of diversity. Just as equality has become the goal of the LGBTIQ movement, the celebration of difference should be a main aim of this struggle as well. This could be done through the integration of Buddhism, one of the core values in Cambodian society, and the promotion of the “coming out” concept. Buddhism can play its part, using its wisdom to promote respect and acceptance of diversity, to establish itself as a progressive faith, especially in the context of a gradual erosion of the practice of Buddhism (U.S Department of State, 2021) due to recent scandals associated with some religious figures (Ben, 2015; Khy and O’Connell, 2016).

Pagodas can work with LGBTIQ activists to clarify the belief in Karma and “Khteuy” while also creating a body to explain the religious texts on homosexuality to the public better. This has been shown to be successful in Indonesia where the Youth Interfaith Forum on Sexuality is flourishing and some Indonesian Islamic and Protestants leaders continue to work with the Asia Pacific Coalition for Men's Sexual Health (APCOM) to have conversations on interpreting religious texts in a progressive manner (Rodriguez, 2015). In addition, creating an accepting environment becomes easier when more people are aware LGBTIQ people are friends, relatives, colleagues, and neighbors – and look as similar or different as anyone else. Thus, visibility is important, whether in the form of celebrations, public gatherings like Pride events, or on an everyday level in the school or workplace. Pride celebrations can involve people of influence such as local celebrities, monks, or important people in the country. These steps are vital for the normalization of LGBTIQ rights among the general public, first for the purpose of inclusiveness and second for changing public opinion and fostering a cultural transformation that will lead to marriage equality legalization. Transformation in state regulation and policy does not always occur alongside a total and cultural transformation (Yulius, 2018). Thus, the legal and social reforms should always go hand-in-hand to make legal transformation effective.

- **Beyond Marriage Equality: Social Protection and Cultural Transformation**

LGBTIQ rights are increasingly centered around the topic of formal equality— legalization of same-sex marriage and the enactment of anti-discrimination laws. Too often the popular term “LGBTIQ” assumes that those different identities share similar goals and concerns. However, will all LGBTIQ people gain the same benefits from this formal equality? Who would gain more from this development? Individuals from well-nourished socio-economic backgrounds might not find any difficulties in getting into formal employment. But, the ones at the bottom with limited

resources will be again left behind. Those people need not only legal recognition, but also structural reforms that enable them to access education, health, and social welfare. LGBTIQ living in urban areas, for example, have access to vastly more resources and support than those living in rural areas (CCHR, 2010). Looking at this, one should take into consideration the concept of intersectionality or how different forms of social categorization such as race, class, education, etc. intersect with gender and sexual identities. This can help to highlight the different needs even among the so-called LGBTIQ community and inform public policies to promote and protect LGBTIQ rights. The government should work with LGBTIQ activists to bridge these gaps to promote the financial and economic inclusion of the most disadvantaged individuals. Reforms to support resource distribution for the most marginalized members of the LGBTIQ community should be made. Social policies in the form of social assistance such as welfare and social services should be brought in, targeting vulnerable LGBTIQ individuals who experience multiple layers of discrimination (gender identity, economic class, education, or disability).

Conclusion

Just as marriage equality is significant to normalize homosexuality and reduce stigma, poverty, and other problems within the LGBTIQ community, celebration of diversity and differences is equally vital, given it can lessen discrimination and build an environment for cultural transformation. This race to marriage equality and inclusiveness around the world is ever changing and evolving; Cambodia is no exception. Different forces within and outside Cambodia — French colonization, globalization of LGBTIQ identities, religion, and political contestations — have shaped Cambodian LGBTIQ discourse throughout history. Not until recently had LGBTIQ rights has gained attention from Cambodian elites and political leaders who have declared their stand on the matter, but none have made a bold move towards the formal equality of LGBTIQ rights. Prime Minister Hun Sen said that Cambodia was not ready for same-sex marriage. However, we will never be ready unless we start to take a step forward, and it requires all stakeholders to walk on this road together. Several course of actions here should be considered. Firstly, staying rooted in the communities and maintaining independence from partisan politics can help the movement survive political contestations. In the meantime, it is important to create a culture where differences and diversity are celebrated through the integration of Buddhism and people of influence. These actions can build up momentum to ensure the goals of marriage equality can be confirmed by Cambodian laws.

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