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البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى كمبوديا

تقرير الخبير المستقل المعني بالحماية من العنف والتمييز القائمين على أساس الميل الجنسي والهوية الجنسية\*

### موجز

يقدم الخبير المستقل المعني بالحماية من العنف والتمييز القائمين على أساس الميل الجنسي والهوية الجنسية، فيكتور مادريغال بولوز، في تقريره، معلومات عن زيارته إلى كمبوديا في الفترة من 10 إلى 20 كانون الثاني/يناير 2023. واستناداً إلى المعلومات التي جُمعت قبل الزيارة وأثناءها وبعدها، يقيم الخبير المستقل تنفيذ معايير حقوق الإنسان الوطنية والدولية القائمة لمكافحة العنف والتمييز القائمين على أساس الميل الجنسي والهوية الجنسية، ويقدم صورة شاملة عن حالة حقوق الإنسان للمثليات، والمثليين، ومزدوجي الميل الجنسي، ومغايري الهوية الجنسية وغيرهم من الأشخاص المتنوعين جنسانياً في كمبوديا. ويحدد الممارسات الجيدة والتحديات المتبقية ويصوغ توصيات لتعزيز الحماية من العنف والتمييز القائمين على أساس الميل الجنسي والهوية الجنسية.

\* يعمّم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعَمَّم باللغة التي قُدِّم بها فقط.



الرجاء إعادة الاستعمال

## تقرير الخبير المستقل المعني بالحماية من العنف والتمييز القائمين على أساس الميل الجنسي والهوية الجنسية عن زيارته إلى كمبوديا

### I. Introduction

1. Pursuant to Human Rights Council resolution 50/10, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, conducted an official visit to Cambodia from 10 to 20 January 2023 at the invitation of the Government. The purpose of the visit was to assess the situation of lesbian, gay, bisexual and trans and other gender-diverse (LGBT) persons in the country and identify good practices and gaps in the implementation of national and international human rights standards to combat violence and discrimination based on sexual orientation and gender identity.

2. During his visit, the Independent Expert visited Phnom Penh, Siem Reap and Battambang, where he met with several dozen State representatives at the national and provincial levels. He wishes to thank the Government of Cambodia for the invitation and for its excellent cooperation and hospitality during the visit. He is thankful for the openness, respect and candour with which all discussions were held, and for the commitment of the State to thoughtful attention to human rights issues related to sexual orientation and gender identity in the future.

3. The Independent Expert also met with human rights defenders and a wide variety of civil society organizations working in the areas that have significant intersections with the concerns of his mandate, which, collectively, facilitated contacts with over a hundred LGBT persons with lived experiences of violence and discrimination. The Independent Expert expresses his deep gratitude to Cambodian civil society and LGBT communities, for their generosity in sharing their stories as well as the information and analysis at their disposal.

4. The Independent Expert also met with the United Nations country team and members of the diplomatic corps. He thanks the Resident Coordinator in Cambodia and the United Nations country team for their support and assistance in the preparation and execution of the visit, as well as the Office of the High Commissioner for Human Rights in Cambodia for the excellent support and collaboration. The noble mission of the United Nations is best served when all entities of the United Nations family commit their best efforts to sharing information and coordinating their efforts; the Independent Expert is persuaded that, owing to the principled action of all United Nations officers in Cambodia, this visit was an example of best practice, which he encourages others to follow.

### II. Context and background

5. The Independent Expert notes the complex and rich history of Cambodia, a country with deeply held traditions and values, and an ambitious approach to its future and its place in the world order. He strongly believes that the confluence of these factors effectively equips Cambodia with significant advantages to cater to the local, national and global implications of protection against violence and discrimination in relation to a reality that is as old as humankind itself: diversity in sexual orientation and gender identity.

6. Cambodia has undergone remarkable economic growth and social changes in the past decades, to become “one of the fastest-growing economies in the world and a remarkable performer in terms of poverty reduction and improvement in social indicators”.<sup>1</sup> The Working Group on the Universal Periodic Review noted in 2019 that the country had halved its rates

<sup>1</sup> [A/HRC/41/17](#), para. 6.

of extreme poverty and maternal mortality, achieved nearly universal primary education enrolment and made significant progress in combating HIV/AIDS since 1990.<sup>2</sup>

7. Four key factors create a specific context for this visit: the concurrent mandate of the Special Rapporteur on the situation of human rights in Cambodia; the impact of the coronavirus disease (COVID-19) pandemic, which slowed economic growth and put strain on all State and non-State institutions; the ambitious development objectives of the Government of Cambodia and its commitment to the Sustainable Development Goals; and the local elections that took place in 2022, and the national elections in 2023 which were upcoming at the time of the visit.

8. Persons of diverse sexual orientation and gender identity in Cambodia identify under myriad identities, among them: lesbian, gay, bisexual, trans woman, trans man, third sex, queer, non-binary and *sim*.<sup>3</sup> Only some of these terms correspond with the formulaic LGBT acronym, widely used around the world and in the Global North in particular. Some of the identities used in Cambodia transcend rigid concepts of gender identity, gender expression or sexual orientation, and, depending on the language, the terms “sex”, “gender”, “gender identity” and/or “sexual identity” are not always used or distinguished. The Independent Expert strongly advises that these perceptions and self-identification of Cambodian persons and communities be a guiding criterion of any future development of methodology in the definition of terms, categories and terminologies. In that connection, the way in which laws and policies define identity terms has a significant impact on whether and to what extent universally protected human rights are recognized and protected under the law, and the use of terms such as “sex”, “gender”, “sexual orientation”, “gender identity” and “gender expression” can either give full effect to or unduly limit the universal application of human rights.

9. A misconception exists that the LGBT community in Cambodia is composed only of a small and/or privileged group of persons, which is reinforced by images of media celebrities and trans beauty pageant winners. State-led data collection does not exist; however, in all likelihood, hundreds of thousands of persons have diverse sexual orientation or gender identity in Cambodia. The Independent Expert met with LGBT university graduates, farmers, artists, police officers, government contractors and human rights defenders; persons with different ethnic backgrounds, including Indigenous Peoples; city and rural folk; persons as young as 18 and as old as 72; persons who declared that they had economic means and persons who did not possess anything. This suggests that LGBT persons are numerous in Cambodia – which is profoundly relevant for the formulation of public policy, for the principle of leaving no one behind, and for full adherence to the human rights obligations incumbent upon the State.

10. The Independent Expert did not receive reports of massive, systematic or flagrant physical violence against persons based on their sexual orientation or gender identity in Cambodia. According to many State and non-State actors, this can be attributed to high levels of tolerance within Cambodian society, reinforced by religious mores, and to the official position of the Government. Without exception, the State agents with whom the mandate holder interacted acknowledged at the outset that diversity in sexual orientation and gender identity was a trait inherent to humankind, and that all Cambodian citizens, including members of the LGBT community, were valued members of society who deserved freedom and equality. The Independent Expert also notes with satisfaction that Pride celebrations have been organized in Cambodia since 2009, with increasing visibility and participation.<sup>4</sup> This high level of respect and government support has a positive impact on the forbearance of LGBT persons as members of the society who deserve protection and equality of rights. In turn, the adoption of legal and policy frameworks protecting against violence and discrimination based on sexual orientation and gender identity would have a positive impact

<sup>2</sup> Ibid.

<sup>3</sup> See, for example,

[https://www.undp.org/sites/g/files/zskgke326/files/migration/asia\\_pacific\\_rbp/rbp-hhd-2014-blia-cambodia-country-report\\_0.pdf](https://www.undp.org/sites/g/files/zskgke326/files/migration/asia_pacific_rbp/rbp-hhd-2014-blia-cambodia-country-report_0.pdf).

<sup>4</sup> A/HRC/42/60/Add.1, para. 56.

on the acceptance of LGBT persons in the society, reinforcing a virtuous circle for the full enjoyment of human rights by all Cambodian citizens.

### **III. Legal, institutional and public policy frameworks**

#### **A. International obligations and harmonization of national law**

11. Cambodia is party to nine core human rights treaties and four of their Optional Protocols, including the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and it has created solid institutional frameworks for the implementation of its international obligations. It has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention against Torture. However, it has not yet signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, or the inter-State communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance. It is also yet to ratify the First Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the Convention on the Rights of Persons with Disabilities, under which it would accept the individual complaints procedures under these treaties.<sup>5</sup>

12. During its third universal periodic review, in 2019, Cambodia accepted nine recommendations specifically related to the protection of the rights of LGBT and intersex persons.<sup>6</sup> These recommendations focused on three main legal and policy reforms: (a) amending article 45 of the Constitution of Cambodia to enable legal marriage equality for same-sex couples; (b) enacting laws and policies guaranteeing non-discrimination based on sexual orientation, gender identity and expression, and sex characteristics; and (c) enacting legislation allowing legal gender recognition for trans persons. The Government committed to implementing these recommendations before the following universal periodic review cycle, in 2023. To date, however, none of those recommendations has been implemented.

13. The Independent Expert welcomes the engagement by Cambodia with a wide range of human rights mechanisms, including the special procedures, as well as its reports to the treaty bodies and its participation in the universal periodic review. Like the Special Rapporteur on the situation of human rights in Cambodia, the Independent Expert encourages the Government to continue its work towards a universal periodic review implementation plan and to engage in annual consultative reviews involving the Government, civil society and cooperation partners.<sup>7</sup>

#### **B. Legal framework**

14. Social ownership of the principle of respect in Cambodia is reinforced by constitutional and legal standards. Unlike some other countries in the region, Cambodia does not have any legislation explicitly criminalizing sexual orientation or gender identity. Remarkably, it is one of the few countries in the world that never criminalized sexual orientation or gender identity.

15. Article 31 of the Constitution stipulates that Cambodia shall recognize and respect international human rights law. It guarantees equality before the law for all Cambodian citizens, without discrimination based on “race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status”. Even though sexual orientation and gender identity would fall under “other status”, the lack of explicit protection

<sup>5</sup> See [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx).

<sup>6</sup> [A/HRC/41/17/Add.1](#), para. 2; [A/HRC/45/51](#); and [A/HRC/41/17](#), paras. 110.45–110.47 and 110.50–110.55.

<sup>7</sup> [A/HRC/45/51](#), para. 83.

against discrimination based on these grounds in the Constitution and in Cambodian legislation creates a protection gap, which hinders identifying and reporting situations of discrimination based on sexual orientation and gender identity, ensuring accountability, and providing redress to victims.

16. Cambodia does not have any laws protecting against discrimination based on sexual orientation and gender identity. The adoption of legislation expressly prohibiting discrimination based on sexual orientation and gender identity has been recommended by the Human Rights Committee<sup>8</sup> and the Special Rapporteur on the situation of human rights in Cambodia.<sup>9</sup> In 2019, the Government accepted a series of recommendations during its third universal periodic review to adopt such legislation by 2023.

17. Article 10 of the Civil Code protects the rights to identity, dignity and privacy. However, the country does not have any legislation allowing trans and gender-diverse persons to have their self-defined gender identity legally recognized. The Government accepted the recommendation to introduce a legal gender recognition law, during its third universal periodic review. The Independent Expert notes that the current legal framework does not contain any prohibition of legal gender recognition. Furthermore, the adoption of legislation providing legal recognition on the basis of self-identification would be timely, as the country is currently implementing the Cambodia National Strategic Plan of Identification 2017–2026, aimed at building a modern, permanent, universal civil registration system as well as an integrated population identification system.<sup>10</sup>

18. Legal recognition of self-determined gender identity would be a critical step towards the social inclusion of trans and gender-diverse persons, who are experiencing serious obstacles due to the incongruence between the gender marker on their identification documents and their gender identity, with concrete negative impacts regarding their access to employment, health care and education, as well as their mental health, their ability to travel and their family rights, among others.

19. Cambodia accepted recommendations to legalize same-sex marriage during its third universal periodic review. However, same-sex marriage is still banned under Cambodian law according to article 45 of the Constitution (which defines marriage as being “between one husband and one wife”), the Civil Code (Book 7) and article 3 of the Law on Marriage and Family (1989). In 2020, 15 out of the 24 provinces of Cambodia had adopted a “Declaration of Family Relationship” procedure, which is “a civil contract between two people who are willing to be together and share responsibility taking care of the family, children and distribute joint assets, as legal spouses do”.<sup>11</sup>

20. Even though same-sex marriage is illegal, it is common for same-sex couples to perform traditional marriages in Cambodia,<sup>12</sup> even though these partnerships are not legally recognized. Same-sex couples sometimes receive some degree of legal recognition in the form of family books delivered by local authorities, classifying them either as husband and wife or as siblings.<sup>13</sup> However, the practice is inconsistent and does not give access to the full range of rights and duties attached to marriage. The inability to get legally married bars same-sex couples from numerous rights and privileges arising from marriage, including in relation to joint ownership of property, custody of children, taxation, inheritance and protection from domestic abuse.<sup>14</sup> In addition, LGBT persons do not have full and equal adoption rights.

21. Societal values operate within this legal framework. Civil society organizations have explained that “the institution of marriage is exceptionally highly valued in Cambodia, and excluding LGBT and other gender-diverse people from the institution of marriage excludes

<sup>8</sup> CCPR/C/KHM/CO/2, para. 9.

<sup>9</sup> A/HRC/42/60, para. 33; and A/HRC/42/60/Add.1, para. 61.

<sup>10</sup> See <https://getinthepicture.org/resource/cambodia-national-strategic-plan-identification-2017-2026>.

<sup>11</sup> Lucas Ramón Mendos and others, *State-Sponsored Homophobia 2020: Global Legislation Overview Update* (Geneva, International Lesbian, Gay, Bisexual, Trans and Intersex Association, 2020), p. 285.

<sup>12</sup> A/HRC/41/17, para. 82.

<sup>13</sup> Cambodian Centre for Human Rights and others, joint submission to the Human Rights Council for the third universal periodic review of Cambodia, 12 July 2018, para. 13, available at [https://ilga.org/wp-content/uploads/2024/03/stakeholdersreport\\_CAMBODIA\\_UPR32.pdf](https://ilga.org/wp-content/uploads/2024/03/stakeholdersreport_CAMBODIA_UPR32.pdf).

<sup>14</sup> A/HRC/42/60/Add.1, para. 57.

them from one of the foundations of Cambodian society”.<sup>15</sup> Family is seen as a key element in the pursuit of happiness, and most parents perceive their children as a prolongation of themselves and consequently wish a stable, quiet and happy life for them in all possible areas of life: professional, personal and social. In turn, children will play a fundamental role in the emotional and practical support for their parents as they become older. Since legal recognition of marriage as the basis of a family is deeply cherished and is a requirement for the enjoyment of a wide range of rights, there is great pressure to enter into legally recognized marriages by marrying a person of the opposite sex, something that is compounded by the lack of knowledge of sexual and gender diversity which leads to feelings of shame by families and communities.

22. Article 496 of the Criminal Code criminalizes incitement to discrimination that is malicious or violent against a person or a group of persons based on ethnicity, nationality, race or religion. The country does not have any legislation sanctioning hate crime and hate speech inciting discrimination or violence on the basis of sexual orientation and gender identity. Such legislation would be an important step in protecting LGBT persons against verbal and physical violence.

### C. Institutional and policy framework

23. The Ministry of Women’s Affairs, the Ministry of Justice, the Cambodian National Council for Women and the Cambodian Human Rights Committee are the main institutions in Cambodia that are responsible for inclusive and non-discriminatory policies in Cambodia, notably in relation to sexual orientation and gender identity.

24. In 2021 and 2022, the Government released draft legislation for the establishment of a national human rights institution and underwent an extensive consultation process under the auspices of the Cambodian Human Rights Committee in collaboration with the Office of the High Commissioner for Human Rights in Cambodia, aiming at the establishment of an independent national human rights institution in keeping with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). After a comprehensive process of technical analysis of the draft legislation, and cross-referencing it with good practices in the Asia-Pacific region, it is expected that the final draft will soon be submitted to the Council of Ministers for consideration. The Independent Expert highly values this process and considers that the creation of the national human rights institution pursuant to the Paris Principles would be a critical step towards protection against violence and discrimination based on sexual orientation and gender identity.

25. The National Action Plan to Prevent Violence against Women (2019–2023) explicitly includes lesbian, bisexual and trans women under the umbrella of “women with increased risk” of being subjected to violence. The Action Plan accurately notes that “women who are stigmatized and are neglected or ignored in their communities or in society occupy a very vulnerable position, which increases their risk of human rights abuses, including violence” and refers to sexual orientation and gender identity as risk factors.<sup>16</sup> This is a welcomed step demonstrating commitment to gender mainstreaming by the Government, in line with the sustainable violence prevention agenda in the Sustainable Development Goals. However, the implementation of the Action Plan has been identified as a point for improvement.

26. The National Population Policy 2016–2030 includes the recommendation to introduce comprehensive sexuality education in schools and colleges and promote condom use for safe sex among youth.<sup>17</sup> Accordingly, health education was included as a core and compulsory subject in the curriculum for all grades in 2016, although it did not specifically address sexual orientation and gender identity.<sup>18</sup> In June 2017, the Ministry of Education, Youth and Sport,

<sup>15</sup> Cambodian Centre for Human Rights and others, joint submission to the Human Rights Council, para. 13.

<sup>16</sup> Available at [https://cambodia.unfpa.org/sites/default/files/pub-pdf/nap\\_2019-2023\\_english\\_final.pdf](https://cambodia.unfpa.org/sites/default/files/pub-pdf/nap_2019-2023_english_final.pdf), para. 1.2.4.

<sup>17</sup> Available at [https://cambodia.unfpa.org/sites/default/files/pub-pdf/NPP\\_English\\_Final.pdf](https://cambodia.unfpa.org/sites/default/files/pub-pdf/NPP_English_Final.pdf), para. 25.

<sup>18</sup> Cambodian Centre for Human Rights and others, joint submission to the Human Rights Council, para. 49.



in partnership with civil society organizations, introduced a “Life New Skills” curriculum inclusive of sexual orientation and gender identity, sexual education, and gender-based violence.<sup>19</sup> This new course was scheduled to become part of the mandatory curriculum in 2023, in consultation with civil society organizations and the United Nations Population Fund.<sup>20</sup> The Ministry informed the Independent Expert that a certain number of syllabuses and textbooks have already been updated to include this new programme.

27. The Independent Expert emphasizes the importance that statements made by politicians ensure respect of the human rights of persons of diverse sexual orientation and gender identity in Cambodia. In 2015, the Ministry of Information issued a statement calling on the media to stop mocking the LGBT community.<sup>21</sup> In 2020, the President of the Cambodian Human Rights Committee called upon families of LGBT persons and Cambodian society more broadly to avoid discrimination, violence and psychological oppression based on sexual orientation and gender identity.<sup>22</sup> These are good examples of political expressions of respect and acceptance, and the Independent Expert encourages politicians and authorities to carefully assess the weight of their statements and their impact before issuing them. In particular, the Independent Expert observes that in some cases there appears to be a lack of congruence between the statements made in the universal periodic review and political statements made internally.<sup>23</sup>

## D. Data

28. In addressing any instance of violence and discrimination, the role of State institutions is naturally crucial. Whether we are talking about the instances of the chain of justice, or public health, or social services, every institution depends on the existence of public policy aimed at recognizing the existence and particular challenges faced by LGBT persons. Such public policy would be a next step for the Government of Cambodia. The reasons for this are manifold:

(a) The system itself tends to invisibilize sexual orientation and gender identity as a feature of human existence, and as grounds for violence and discrimination. State agents are therefore badly equipped to address needs that are specific to these populations.

(b) This leads to another major concern: the lack of statistics on sexual orientation and gender identity in every sector, resulting from the absence of appropriate methods of self-identification and data collection and processing. Official statistics will therefore tend to understate the number of incidents, and prejudicial and inexact categorization of cases results in misidentification, concealment and underreporting. The systemic failure in data collection often results in the virtual invisibility of the concerns and problems of LGBT persons.

(c) In turn, the lack of data leads to the absence of adequate public policies to respond to the valid concerns and challenges faced by the LGBT community.

29. All government representatives with whom the Independent Expert met during the visit acknowledged that they were facing methodological difficulties preventing data collection on sexual orientation and gender identity, notably linked to respect for the privacy of LGBT persons. Yet, the Independent Expert insists that those challenges are not insurmountable and that data collection and management is a key element in the obligation of States to prevent, prosecute and punish violations of human rights.<sup>24</sup>

30. The Independent Expert encourages the Government to recognize the role played by civil society organizations in the collection and management of data concerning violence and

<sup>19</sup> A/HRC/38/43, para. 74; and A/HRC/42/60/Add.1, para. 56.

<sup>20</sup> Cambodian Centre for Human Rights and others, joint submission to the Human Rights Council, para. 50.

<sup>21</sup> Ibid., para. 22.

<sup>22</sup> Pech Sotheary, “Call to reduce discrimination against LGBT community”, *Khmer Times*, 18 May 2020.

<sup>23</sup> See <https://fb.watch/lmwYYfqGrT/?mibextid=Nif5oz> (in Khmer).

<sup>24</sup> A/HRC/41/45, para. 70.

discrimination based on sexual orientation and gender identity, and therefore in the provision of an evidence base that can be used to formulate public policy.<sup>25</sup>

## IV. Violence and discrimination based on sexual orientation and gender identity

31. Some of the Independent Expert's State interlocutors expressed that discrimination against LGBT persons did not exist. In the absence of official studies or statistical data, information on violence and discrimination based on sexual orientation and gender identity is scattered and incomplete.

32. Nevertheless, the Independent Expert believes that there is enough evidence to strongly suggest that LGBT persons do face violence and discrimination at home, at school, at work, when accessing health-care services, and in places of detention. The Independent Expert identified systemic factors that deny LGBT persons the right to live freely and equally in Cambodia. It is also important to note that discrimination can be the result of action or omission and can also be perpetrated by private individuals.

### A. Violence and family rejection

33. Although the Independent Expert received few claims of systematic violence perpetrated by the State, such reports exist and should not be overlooked. For example, in 2020, a joint communication was sent by several mandate holders to the Government of Cambodia expressing concerns regarding allegations of the arbitrary arrest and detention of a trans woman conducting sex work based on a private video that had been published on social media against her will.<sup>26</sup> During the visit, the Independent Expert was informed of instances of police violence against trans women, especially those working as sex workers.<sup>27</sup> A 2016 study revealed that 38.7 per cent of trans women surveyed had been arrested by the police at least once, of whom 91.67 per cent believed that they had been arrested because of their gender identity, and that 33.58 per cent reported having been wrongly accused of a crime.<sup>28</sup> The survey also shows high levels of harassment, bullying and abuse by police forces. It is of utmost importance that such incidents be properly reported, that victims have access to justice and that perpetrators be held accountable.

34. The family sphere is the primary space of discrimination and violence based on sexual orientation and gender identity in Cambodia. Because of the importance of family values, the level of parental disapproval when their child reveals a non-traditional sexual orientation or their trans identity can be unbearable and, in some cases, break family bonds. The disappointment of parents of LGBT persons is seemingly based on the fear that their children will not be able to live a happy life, as well as the fear that the family will be subjected to gossip. The Independent Expert heard accounts of LGBT children being threatened with being rejected by their families, expelled from their homes, or deprived of financial support and therefore being unable to pursue their studies and facing poverty.

35. An overwhelming number of persons of diverse sexual orientation and gender identity reported that the first reaction of their parents was to try to "change" them, for example by separating them from their partner, sending them away, or forcing them to do domestic tasks deemed appropriate to the sex they were assigned at birth. Studies show that more than three

<sup>25</sup> Ibid., paras. 77 and 82.

<sup>26</sup> See communication KHM 2/2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25225>, and the reply thereto, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35452>.

<sup>27</sup> Cambodian Centre for Human Rights and others, joint submission to the Human Rights Council, para. 31.

<sup>28</sup> Cambodian Centre for Human Rights, "Discrimination against transgender women in Cambodia's urban centers", September 2016, pp. 18–20, available at <https://cchrcambodia.org/en/publications/general-reports/115>.



quarters of families in Cambodia attempt to coerce their LGBT children to “convert” their sexual orientation or gender identity, including through arranged marriage, or separating their children from their same-sex partners. Moreover, almost half of the parents reject their children if they refuse to change their sexual orientation or gender identity.<sup>29</sup> Reports indicate that parents take their LGBT children to traditional healers to “cure” them, where the “treatment” sometimes includes an element of physical punishment.<sup>30</sup>

36. The Independent Expert reaffirms that practices of conversion are by their very nature discriminatory, degrading, inhuman and cruel and may amount to torture, provoking profound psychological and physical damage. Such practices may engage the responsibility of the State under international human rights law, even when they are perpetrated by private actors.<sup>31</sup>

37. Discrimination and violence may also come from other family members, such as siblings, grandparents, aunts or uncles. The Independent Expert was informed of harassment within family circles based on prejudice and stigma, such as the preconceptions that persons of diverse sexual orientation and gender identity are ill, are prone to committing robbery, and cannot be trusted.

38. A study on family violence in 2019 revealed that 81 per cent of lesbian women, bisexual women and trans men under the age of 35 had faced emotional violence in their family; that 10 per cent had experienced sexual violence, commonly in forced marriages; and that 35 per cent had at some point in their lives considered or attempted suicide due to their family’s denial of their sexual orientation or gender identity and expression.<sup>32</sup>

39. All government representatives with whom the Independent Expert met during the visit were aware of this issue and highlighted the importance of raising awareness about sexual and gender diversity in families as a first and necessary step towards the eradication of violence and discrimination based on sexual orientation and gender identity. The Special Rapporteur on the situation of human rights in Cambodia recommended that special consideration should be given to addressing violence against LGBT and intersex persons as part of the Government’s efforts to address gender-based violence.<sup>33</sup>

## B. Education

40. A survey of LGBT youth, in 2015, revealed that close to 63 per cent of respondents had experienced bullying at some point during their time in school, and 94 per cent of them felt the bullying was either partly or entirely because of their sexual orientation or gender identity and expression.<sup>34</sup> The available data provides evidence that bullying on the basis of sexual orientation and gender identity is highly prevalent in Cambodian schools, through verbal bullying, social exclusion, physical bullying, and sexual assault and abuse which were reported by as many as one third of the participants in the survey.<sup>35</sup>

41. Bullying can be performed by peers or by teachers, and it also relates to highly gendered codes that are included in school rules and regulations. Strict dress codes in school are problematic for students who express gender in a way that does not fit the dress code, especially with regard to haircuts and uniforms.

42. The Ministry of Education, Youth and Sports stated that it had recently issued guidelines recommending to schools to have a flexible approach regarding the dress code and that students of all genders should, for example, be free to have long or short hair. However,

<sup>29</sup> Taylor Nelson Sofres Cambodia and Rainbow Community Kampuchea, *Opinions, Attitudes and Behaviour toward the LGBT Population in Cambodia* (2015).

<sup>30</sup> [A/HRC/44/53](#), para. 48.

<sup>31</sup> *Ibid.*, paras. 83–86.

<sup>32</sup> Rainbow Community Kampuchea, “Family violence towards lesbian, bisexual and transgender (LBT) people in Cambodia”, June 2019.

<sup>33</sup> [A/HRC/36/61](#), para. 38.

<sup>34</sup> Cambodian Centre for Human Rights, “LGBT bullying in Cambodia’s schools”, December 2015, p. 16.

<sup>35</sup> *Ibid.*

evidence consistently gathered in Phnom Penh, Siem Reap and Battambang indicates that schools are not yet implementing these guidelines uniformly. This can be a serious obstacle: a 19-year-old gender-diverse youth explained that they had decided to drop out of school during grade 12, before obtaining their school certificate, because of the impossibility of expressing their gender identity. The Independent Expert also heard accounts of pupils who had been pushed out of school because they did not respect the dress code or they feared teachers who had threatened to cut their hair. Many trans and gender-diverse people explained that they had waited until finishing their studies before expressing their gender identity, as they feared that it would have a negative impact on their education. However, in some of the cases that decision entailed new problems in the future; indeed, the incongruence between the photographs on their education certificates and the person's appearance when looking for a job presented an obstacle to employment.

43. Finally, the Independent Expert is concerned by shortcomings in the provision of comprehensive sexuality and gender education, inclusive of concepts of sexual orientation and gender identity. He welcomes the efforts of the Ministry of Education, Youth and Sports jointly with the Ministry of Health to implement a new health education curriculum with a component on comprehensive sexuality education, which includes the concepts of sexual orientation, gender identity, gender expression, and sexual and reproductive health. The Independent Expert encourages the Government to continue to proceed towards the implementation of this curriculum and to ensure the inclusion of sexual orientation and gender identity in all related materials, including in the training of teachers and in students' textbooks.

44. Cambodian civil society has stressed that increasing awareness by means of human rights workshops on sexual orientation or gender identities and expressions or sexual characteristics, and through training, tools, materials, and the integration into educational curricula of issues related to sexual orientation or gender identities and expressions or sexual characteristics, will significantly help to foster acceptance of LGBT people.

### C. Employment and social protection

45. Although sexual orientation and gender identity are not specifically recognized as prohibited grounds of discrimination in Cambodia, article 12 of the Labour Law contains provisions on non-discrimination in employment, including on the ground of sex. The Ministry of Labour and Vocational Training clarified that discrimination based on sexual orientation or gender identity was never reported but would fall under the ground of sex and thus be considered as a grave form of discrimination. However, the fact that not one complaint of discrimination against LGBT persons has ever been presented to the Ministry does not correlate with many stories conveyed to the Independent Expert, or the scarce available data.

46. For example, in a 2016 survey of trans women, more than one third of respondents reported having been refused a job because they were trans, and 27 per cent said that they had been dismissed from a job because of their gender identity.<sup>36</sup> Due to the lack of legal recognition of their gender identity, trans and gender-diverse persons face significant obstacles in accessing employment because of the discrepancy between the gender marker on their ID cards and their gender identity (as well as their gender expression, including hair styles).

47. Throughout the country, LGBT persons told the Independent Expert that they were regularly invited to interviews for positions that fitted their qualifications, but they were not selected for the job after the interview because of their perceived sexual orientation or gender identity. Many of them did not disclose their identity to their employers out of fear of being fired or not being hired. Several persons explained that coveted hospitality and service positions are not given to persons who are perceived as LGBT, because they are suspected of being thieves, sex workers or somehow morally corrupt. Factory jobs, sex work and jobs

<sup>36</sup> Cambodian Centre for Human Rights, "Discrimination against transgender women in Cambodia's urban centers", pp. 16 and 17.

in the beauty industry appeared to many as the only alternatives available.<sup>37</sup> The Independent Expert also notes that because LGBT and other gender-diverse persons in Cambodia tend to drop out of educational institutions earlier than the rest of the population, they usually work in low-skilled jobs.

48. In the workplace, persons of diverse sexual orientation and gender identity are regularly subjected to mockery and harassment by their co-workers. Several teachers working in private schools in the provinces, who were openly gay or perceived as gay by their colleagues, reported that their peers considered that constantly touching and spanking them was acceptable because of their sexual orientation. Impunity for such individual behaviours contributes to creating an environment that is not safe for LGBT workers and in which it is difficult for them to thrive.

49. Discrimination in employment inevitably leads to fewer career opportunities, which in turn contributes to a higher poverty rate experienced by LGBT persons. Often working in the informal sector, they are less likely to escape the cycle of poverty; this is exacerbated by family rejection and exclusion from schools and the wider community.<sup>38</sup> LGBT persons were particularly affected by the COVID-19 crisis. Some relied on emergency food assistance provided by civil society organizations.<sup>39</sup> Reports indicate that trans women faced high levels of food insecurity, and many had to migrate to neighbouring countries to find job opportunities.<sup>40</sup>

50. Access to public services and institutions is in some cases problematic, because many LGBT persons frequently change their residential address and work in the informal work sector, so they do not have sufficient legal documents to receive an ID card and have access to the National Social Security Fund scheme. This leads to poorer social protection for the LGBT community, as their access to public services and institutions is more complicated than it is for the rest of the population. The situation is particularly difficult for older LGBT persons, who are often marginalized, face housing insecurity, and are unable to access many services and benefits that are only available to legally married couples.

51. Persons of diverse sexual orientation and gender identity are part of Cambodian society and their talent and competencies can play a role in the economic development of the country. To achieve this potential, it is necessary to put the conditions in place to ensure that LGBT persons can be fully themselves and have access to positions in all economic sectors of the society.

52. In this context, the Independent Expert encourages the intentions of Cambodia to pass a comprehensive anti-discrimination law. He further recommends the preparation of surveys and studies about the situation of LGBT persons at work, and campaigns of dissemination of the zero-tolerance policy of the Government towards discrimination based on sexual orientation and gender identity. Furthermore, victims must have access to justice and reporting and remedial mechanisms.

## D. Health

53. According to information made available by the Joint United Nations Programme on HIV/AIDS, the HIV prevalence is higher among trans women (9.6 per cent) and men who have sex with men (4 per cent) compared to the general population (0.6 per cent). The Independent Expert notes that HIV/AIDS programmes are well implemented in the country

<sup>37</sup> See also [A/HRC/42/60/Add.1](#), para. 60.

<sup>38</sup> *Ibid.*

<sup>39</sup> Sayoni, *Making the Invisible Visible in Southeast Asia: How COVID-19 Escalates Violence and Discrimination against LBQ Communities* (2020), p. 36, available at <https://drive.google.com/file/d/1FOPDd1J7btrILgg3EscTallFMFBPKy9X/view?fbclid=IwAR3stWs9rkpRYzIW0spsuK3LyV-eKYa9dQro4b4TTCb234DgvSsJ95DP70>.

<sup>40</sup> ILGA Asia, "Rainbow in the rain: the LGBTI community in Cambodia in the pursuit of freedom and equality" (2021), p. 11, available at [https://static1.squarespace.com/static/5a84777f64b05fa9644483fe/t/613197e0eeba791169f29af7/1630640195116/ILGA+ASIA+Country+Report\\_CAMBODIA.pdf](https://static1.squarespace.com/static/5a84777f64b05fa9644483fe/t/613197e0eeba791169f29af7/1630640195116/ILGA+ASIA+Country+Report_CAMBODIA.pdf).

through a network of governmental and non-governmental actors and have led the Government to set the objective of eliminating AIDS by 2025. He welcomes the recent introduction of prevention treatments (pre-exposure prophylaxis, known as PrEP) for key populations, including men who have sex with men, trans women, and sex workers. The adherence of the Government to the Global Partnership for Action to Eliminate All Forms of HIV-related Stigma and Discrimination, in December 2022, is an excellent step. It should, however, be followed by an action plan that will include the concerns related to diverse sexual orientation and gender identity.

54. A point of concern is that there is very little gathering of data or evidence regarding the impact of HIV/AIDS on groups that are not among the key populations, such as lesbian women, trans men and bisexual persons, and the possible differentiated health outputs of LGBT persons in general.

55. Persons of diverse sexual orientation and gender identity report greater discrimination and obstacles in accessing health services, due to a lack of anti-discrimination provisions and policies prescribing equal treatment in health care.<sup>41</sup> They often face inappropriate questions about their sexual and gender identities by health providers, and in some cases, they refrain from seeking medical help altogether.

56. A certain number of trans persons expressed difficulties when presenting an identification card not matching their gender identity at the hospital, or when filling out hospital forms that only include “male” and “female”. They have also explained that, in the absence of specialized training on issues related to gender identity to health providers, they are treated as patients of their sex assigned at birth without considering their specific needs.

57. The lack of information and access to gender-affirming health care for trans and gender-diverse persons is an important issue. Although some private clinics offer hormonal therapy, these treatments are costly, are only offered in some provinces and are unregulated. Thus, they do not replace a treatment that should be offered by public health services. In the absence of available treatment in the country, trans and gender-diverse persons have recourse to harmful practices such as silicon injections, or self-medication with hormonal therapy without regular screenings, without any information on the risks and side effects of gender-affirming treatments. Many of them feel compelled to travel to neighbouring countries to seek gender-affirming treatments and surgeries.<sup>42</sup> During the COVID-19 crisis, even this solution became unavailable, owing to border and travel restrictions.<sup>43</sup>

58. Persons of diverse sexual orientation and gender identity in Cambodia also face increased risks of suffering from mental health issues. For example, LGBT persons have a higher rate of acute anxiety compared to the general population and they experience significant emotional difficulties – which are common indicators of anxiety and depression – directly related to their sexual orientation and gender identity.<sup>44</sup> Emotional distress and depression are exacerbated by family violence.<sup>45</sup> Persons of diverse sexual orientation and gender identity must have access to mental health support and treatment that is specific to their needs and is delivered by trained medical providers.

59. Measures that have already been recommended, in particular anti-discrimination legislation and policy measures, recognition of same-sex marriage, and legal recognition of gender identity, would also have a positive impact on the enjoyment of the highest attainable level of health. In addition, policy measures already in place should be accompanied by action plans that ensure that sexual orientation and gender identity are included in the gathering of data, with indicators and benchmarks to measure through that data the consequences of the policies themselves.

<sup>41</sup> Sayoni, *Making the Invisible Visible*, p. 38.

<sup>42</sup> Cambodian Centre for Human Rights and others, joint submission to the Human Rights Council, para. 45.

<sup>43</sup> [A/75/258](#), para. 28.

<sup>44</sup> Taylor Nelson Sofres Cambodia and Rainbow Community Kampuchea, *Opinions, Attitudes and Behaviour toward the LGBT Population in Cambodia*, p. 84.

<sup>45</sup> Rainbow Community Kampuchea, “Family violence towards lesbian, bisexual and transgender (LBT) people in Cambodia”, pp. 3 and 9.

## E. Places of detention

60. During the visit, relevant departments of the Ministry of the Interior clearly acknowledged that sexual and gender diversity existed among the imprisoned population. The Independent Expert was informed that combating HIV in detention was a priority and that inmates had access to HIV treatment in prison.

61. Some issues of concern have been raised however, such as the strict rules preventing women from having short hair and men from having long hair, as well as the fact that trans persons are systematically detained in cells on the basis of the sex they were assigned at birth. In a communication sent to the Government of Cambodia in 2020, several special procedure mandate holders expressed concerns that a trans woman in detention did not have access to proper health care in detention, including hormonal treatment and regular medical visits following the gender-affirming surgery that she had undergone six months prior to her detention.<sup>46</sup>

62. The Independent Expert is concerned about the absence of specific protocols and policies on LGBT persons in detention and about the lack of data in connection with these persons. While the Ministry of the Interior could play a key role in filling some of these blanks, the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment should also integrate some of the related elements in its visiting methodology.

63. Furthermore, the Independent Expert notes that policies regarding protection against violence and discrimination based on sexual orientation and gender identity should be implemented in all places of deprivation of liberty, including but not limited to carceral detention, as well as rehabilitation centres, psychiatric wards, and other places where individuals do not enjoy freedom of movement and are de facto deprived of liberty.

## V. Conclusions and recommendations

### A. Conclusions

64. **Despite constitutional protection against discrimination, including on the ground of sex, in strict juridical terms the non-inclusion of the grounds of sexual orientation or gender identity and the *numerus clausus* nature of non-discrimination provisions could give room to a literal interpretation that does not protect individuals from discrimination based on sexual orientation and gender identity.**

65. **In their conversations with the Independent Expert, several government representatives insisted on the idea that the first factor of discrimination against LGBT persons would be “self-discrimination”, defined as the decision to conceal one’s sexual orientation or gender identity out of fear of being rejected, harassed or discriminated against. The Independent Expert insists on clarifying that no one should be forced to reveal their sexual orientation and gender identity in any circumstances, and that the decision to conceal it is a deeply personal choice that is not a factor of discrimination. In fact, it reveals the fear of being subjected to existing forms of violence and discrimination mentioned above.**

66. **Members of the LGBT community, civil society organizations and human rights defenders represent voices that are indispensable in the design, implementation and evaluation of good public policy. This is due to several reasons, among them, the reality that they know and have the trust of the communities, have worked for decades to provide them with specialized and differentiated services, and have created safe spaces where LGBT persons create and maintain community. The Independent Expert strongly advises that the Government nurture and increase spaces of dialogue with civil**

<sup>46</sup> See communication KHM 2/2020.

society, based upon examples of good practice implemented by the Cambodian Human Rights Committee.

67. The agenda for follow-up should be guided by three principal commitments already under the consideration of the Government of Cambodia since its acceptance of related universal periodic review recommendations in 2019: the recognition of LGBT families through the legal recognition of same-sex marriage, the legal recognition of gender identity, and the adoption of comprehensive anti-discrimination legislation.

68. In particular, the lack of legal recognition of same-sex marriages appears to be a key obstacle to social inclusion. “We live peacefully, but not in perfect happiness”, said a trans man from Pursat Province during the visit. The Independent Expert received dozens of testimonies which attested to the obstacles that the lack of legal recognition of rainbow families creates in health care, inheritance, and adoption records showing equal parentage. The testimonies showed the enormous importance that Cambodian citizens attach to the law, and that legal recognition of marriage would be the key to unlocking many of the advantages of social inclusion.

69. Among the many moving stories heard by the Independent Expert during his visit to Cambodia was one conveyed by a 72-year-old trans man from the provinces. Starting in 1973 when they first met, he and his wife went through dozens of separations and reunions effectuated by their parents, their families, their communities and State authorities, all of them allegedly based on misunderstanding and prejudice. For the last few decades, they have been living together in a house that they built on a small patch of land which they cultivate and which provides their sustenance. Their story weaves together Cambodian and intimate history with the thread of one remarkable conviction – in his words: “We always knew that we would rather be dead than not loving each other.” In their Family Record Book, these two persons are registered as sisters. The Independent Expert hopes that the present report and recommendations will be one more element to motivate the Government of Cambodia to make the legal recognition of their family, and of thousands of families like theirs, a reality.

## **B. Recommendations**

70. On the basis of these conclusions and the observations made in the present report, the Independent Expert makes the following recommendations.

71. Regarding cooperation with international human rights mechanisms, the Independent Expert recommends that the Cambodian authorities:

(a) Ratify the remaining international human rights instruments to which it is not yet a party, including those accepting individual complaint procedures, and keep engaging with international human rights mechanisms and processes;

(b) Develop a universal periodic review implementation plan with specific timelines and engage in annual consultative reviews of the implementation plan involving the Government, development partners and civil society;

(c) Implement the recommendations accepted by the Government during the third universal periodic review in relation to sexual orientation, gender identity and sex characteristics, by 2024, and ensure mechanisms to guarantee coherence between the commitments made in the universal periodic review and official statements made at the domestic level.

72. Regarding the legal framework, the Independent Expert recommends that the Cambodian authorities:

(a) Legally recognize families of LGBT persons through recognition of the legal status of same-sex marriage. Article 45 of the Constitution, Book 7 of the Civil Code and article 3 of the 1989 Law on Marriage and Family should be amended accordingly. This legal reform should ensure that same-sex partners benefit from the full rights and duties associated with marriage, including adoption;



(b) Adopt anti-discrimination laws and other measures to explicitly integrate sexual orientation and gender identity in the national legislation of Cambodia. Anti-discrimination laws should cover both the public and private spheres, and provide protection in key contexts, such as employment, education, health care, housing and the provision of goods and services. In order to be effective, anti-discrimination frameworks should provide for effective measures to investigate alleged violations, and provide redress for victims and accountability for alleged perpetrators.<sup>47</sup> Anti-discrimination legislation can take different forms. Inclusion of the grounds of sexual orientation and gender identity in the Constitution has proved to be a best practice, and Cambodia could amend article 31 of the Constitution to add these grounds as explicitly prohibited grounds of discrimination;

(c) Adopt legislation to enable trans and gender-diverse persons to change their legal identity and gender marker. As a matter of general principle, the process of legal recognition of gender identity should be based on self-determination by the applicant, be a simple administrative process, be exempt from abusive requirements, recognize non-binary identities, and be accessible to minors;<sup>48</sup>

(d) Add the grounds of sexual orientation and gender identity to article 496 of the Criminal Code with a view to criminalizing incitement to discrimination and violence based on those grounds; and enact laws against hate speech that establish homophobia, biphobia and transphobia as aggravating factors for the purpose of sentencing;

(e) Enact laws to ensure that homophobic, biphobic and transphobic hate crimes are effectively investigated, accurately categorized and prosecuted, and that those found guilty are punished with sentences commensurate with the gravity of the offence and victims are provided with effective remedies.

73. Regarding the institutional and policy framework, the Independent Expert recommends that the Cambodian authorities:

(a) Establish an independent national human rights institution in compliance with the Paris Principles;

(b) Mainstream the inclusion of protection against violence and discrimination based on sexual orientation and gender identity in all policies and action plans of key institutions having a role in promoting the social inclusion of LGBT persons, in consultation with civil society, the United Nations and other key stakeholders;

(c) Ensure that protection against violence and discrimination based on sexual orientation and gender identity is fully integrated into all national human rights policies and action plans, as well as their implementation mechanisms.

74. Regarding data collection and management:

(a) The Independent Expert recommends that the Cambodian authorities, in consultation with civil society and the communities affected, design methods and protocols for the collection and use of data related to sexual orientation and gender identity, with a view to making visible and understanding the nature and extent of discrimination and violence faced by LGBT persons in order to inform public policies. In doing so, State authorities should adopt a human rights-based approach to data collection and use, and take into consideration people's right to self-identification regarding their sexual orientation and gender identity, the participation of concerned communities, the privacy of individuals involved in data collection efforts, the confidentiality of the information received, transparency, and accountability;<sup>49</sup>

(b) The Independent Expert recommends that the Cambodian authorities develop a series of short-, medium- and long-term data collection mechanisms with a view to elaborating and implementing laws and policies protecting against violence and

<sup>47</sup> See A/72/172.

<sup>48</sup> See A/73/152.

<sup>49</sup> See A/HRC/41/45.

discrimination based on sexual orientation and gender identity. International good practices often include the five following points of departure: health, education, economic well-being, personal security and freedom from violence, and political and civic participation. The Government should also consider including data collection on sexual orientation and gender identity in the national census;

(c) Data on sexual orientation and gender identity should be disaggregated by age, gender, and relevant socioeconomic characteristics that are essential to effective public policymaking, such as economic status, disability, race, Indigenous status, and migration status, among others. It is critical to capture multidimensional and intersecting variables for proper planning, implementation, monitoring and reporting;

(d) The Independent Expert also recommends that the Government recognize the role played by civil society organizations in the collection and management of data concerning violence and discrimination based on sexual orientation and gender identity, and therefore in the provision of an evidence base that can be used to formulate public policy.<sup>50</sup>

75. Regarding protection against violence and family rejection, the Independent Expert recommends that the Cambodian authorities:

(a) Create effective systems for recording and reporting hate crimes based on sexual orientation and gender identity;

(b) Institutionalize training programmes on human rights and sexual orientation and gender identity for State officials in all elements of the chain of justice, including the police, the prosecution, the courts and the penitentiary system. Proper reporting mechanisms should be available to victims of police violence due to their real or perceived sexual orientation or gender identity; as well as guarantees that such allegations are adequately investigated, alleged perpetrators are held accountable, and alleged victims have access to remedies;

(c) Carry out awareness-raising campaigns among parents, families and communities on sexual and gender diversity, aimed at reducing intra-family violence against LGBT persons and rejection by family members;

(d) Conduct a study on practices of conversion, including by family members, religious leaders and traditional healers, and develop related laws, policies and guidelines to ensure that both children and adults are protected against such practices. The State should foster dialogue with key stakeholders, including medical and health professionals' organizations, faith-based organizations, educational institutions and community-based organizations, to raise awareness of the human rights violations connected to practices of conversion.<sup>51</sup>

76. Regarding education, the Independent Expert recommends that the Cambodian authorities:

(a) Implement the new health education curriculum, inclusive of sexual orientation and gender identity, in all grades, on the whole of the national territory. The Government should ensure the inclusion of sexual orientation and gender identity in all related materials, including in the training of teachers and in students' textbooks;

(b) Adopt policies and guidelines to ensure that Cambodian students may freely express their gender at school, including by removing gendered clothes and haircuts from school uniforms, and ensure that schools do not continue to forbid and repress diverse gender expression among students.

77. Regarding employment and social protection, the Independent Expert recommends that the Cambodian authorities:

(a) Conduct surveys and studies on the situation of LGBT persons at work to identify the barriers and challenges that they are facing in the context of employment

<sup>50</sup> A/HRC/41/45, paras. 77 and 82.

<sup>51</sup> See A/HRC/44/53.

and social protection, and develop related policies and guidelines to ensure their protection from violence and discrimination at work and in social protection services;

(b) Ensure access to justice and reporting mechanisms for victims of discrimination based on sexual orientation and gender identity in the context of employment, and carry out campaigns to disseminate the Government's zero-tolerance policy towards discrimination based on sexual orientation and gender identity;

(c) Include sexual orientation and gender identity in all policies and action plans aimed at combating poverty and extreme poverty in Cambodia.

78. Regarding the right to health and access to health care, the Independent Expert recommends that the Cambodian authorities:

(a) Carry out research to identify health disparities and the health situation of persons of diverse sexual orientation and gender identity, with a view to integrating their specific health needs into public health policies;

(b) Develop training programmes and awareness-raising campaigns for medical providers, with a view to combating prejudice based on sexual orientation and gender identity in the health-care system and to guaranteeing access to high-quality, stigma-free health-care services for LGBT individuals;

(c) Ensure the accessibility and affordability of gender-affirming care for trans and gender-diverse persons, including hormonal treatment, surgery or other health-care services to bring the individual's body into alignment, as much as the individual desires and to the extent possible, with their experienced gender;

(d) Ensure that persons of diverse sexual orientation and gender identity have access to mental health support and treatment specific to their needs and delivered by trained medical providers;

(e) Continue and scale up efforts to ensure key populations' access to HIV/AIDS-related health services and to provide user-friendly care for LGBT persons; and develop an action plan for the implementation of the Global Partnership for Action to Eliminate All Forms of HIV-related Stigma and Discrimination that includes the needs and concerns of persons of diverse sexual orientation and gender identity, including specific actions to combat stereotypes systematically associating HIV/AIDS and LGBT persons.

79. Regarding places of detention, the Independent Expert recommends that the Cambodian authorities:

(a) Undertake a study of the human rights situation of LGBT persons in detention, and develop related policies and guidelines on their treatment in detention that take into consideration their needs and situations of vulnerability, drawing upon existing guidelines and good practices in this regard;<sup>52</sup>

(b) Include specific elements related to sexual orientation and gender identity in the visiting methodology and reporting of the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>52</sup> See Association for the Prevention of Torture, *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide* (2018).