

STAKEHOLDER SUBMISSION TO  
THE UNIVERSAL PERIODIC REVIEW (UPR)  
REGARDING THE PROTECTION OF THE RIGHTS  
OF LGBTI PERSONS IN THAILAND

2ND CYCLE OF THE UNIVERSAL PERIODIC REVIEW  
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Submission to the United Nations Universal Periodic Review Regarding  
the Protection of the Rights of LGBTI Persons in Thailand  
2nd Cycle of the Universal Periodic Review  
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Thank you for the information from the working group and networks



In 2011, during Thailand's First Cycle UPR, no recommendations were formulated to the Thai Government on SOGIE issues.

This joint submission has been prepared in consultation with a number of key Thai CSOs. It has been endorsed, in whole or part, by the 15 organizations :

1. Buku's Gender, Sexuality, and Human Rights Classroom -Buku Classroom
2. Commetive production
3. Krapooktak Yakkaya For SOGIE and environment group
4. Health and Opportunity Network-HON
5. Pinkmonkey Lopburi
6. Rainbow sky association of Thailand, Rsat
7. Sangsan Anakot Yawachon Development Project- SAYDP
8. Sexual Diversity Group, SISTERS Foundation
9. TEA law
10. The Coalition on Democracy and Sexual Diversity Rights
11. Togetherness for Equality and Action –TEA
12. Tom Lady Sabay Community
13. www.LovePattaya.com
14. M-Plus foundatio
15. Sapaan.org

## A) Executive summary

1. In 2007, although the Constitution itself did not include the term sexual orientation or gender identity as prohibited grounds for discrimination, a statement of intentions document, which accompanies the 2007 constitution explicitly states that reference to “sex” (phet) in the Anti-Discrimination Article (Article 30 of the Constitution) also forbids discrimination on the basis of gender, sexual identity and sexual diversity (each named in both Thai and English)<sup>1</sup>, which is understood to forbid discrimination against lesbian, gay, bisexual, transgender and intersex individuals.

2. In March 2015, the Thai military government passed the 2015 Gender Equality Act<sup>2</sup>. The highest penalty for discrimination under this law is a

jail term of up to six months. It can be given for disobeying an order by an adjudication committee, if the committee has previously judged that a given private or public sector organization or individual has engaged in gender-based discrimination and ordered that the discriminatory practice be stopped. The law is in force since September 9, 2015. Article 3 of the law stipulates:

“Unfair discrimination on the basis of sex<sup>3</sup>means any act or failure to act which unfairly segregates, obstructs or limits any rights or benefits, whether directly or indirectly, and without legitimacy, because that person is male, female or has expressions that differ from their birth sex.”<sup>3</sup>

Though the Act seems inclusive, legal gaps may be seen in practice regarding the rights of LGBTI people, particularly due to Article 17, which exempts actions by both public and private sector parties related to the freedom, security and protection of others, or actions in accordance with

<sup>1</sup> Constitution Drafting Assembly, Intentions of the Constitution of the Kingdom of Thailand, B.E. 2550 [in Thai], p. 22, available at [http://library2.parliament.go.th/giventake/content\\_cons50/cons50-intention.pdf](http://library2.parliament.go.th/giventake/content_cons50/cons50-intention.pdf)

<sup>2</sup> Gender Equality Act, 2015 [in Thai], Royal Gazette (2015, March 13), p. 132, 18 Ko. Available at <http://www.ratchakitcha.soc.go.th/DATA/PDF/2558/A/018/17.PDF>

<sup>3</sup> <http://www.bangkokpost.com/news/general/683196/gender-act-loophole-denies-equality>

religious principles or national security concerns, which would not be considered an act of discrimination towards LGBTI people.

3. Under the Thai military government, during 2014-2015, a new constitution was drafted.

The draft was reported to include the term ‘third gender’ as a group protected against discrimination; <sup>4</sup> however, the term appears to have been reported inaccurately by the English-language media, because the Thai press reported that the term used was “gender” (phet-saphap)<sup>4</sup>. Thailand’s National Reform Council rejected the draft constitution in a vote on the 10th of September 2015.<sup>5</sup>

#### 4. 2013, The National Human Rights

<sup>4</sup> Panel spokesman Kamnoon Sittisamarn said the new measure would ensure all sexual identities were protected under the constitution and treated equally by the law. “We are putting the words ‘third gender’ in the constitution because Thai society has advanced,” he told Reuters. “There are not only men and women, we need to protect all sexes. We consider all sexes to be equal.” Constitution of the Kingdom of Thailand (2015, draft), <http://www.reuters.com/article/2015/01/15/thailand-politics-idUSL3NoUU1BS20150115>

<sup>5</sup> <http://www.prachatai.com/journal/2015/01/5742>

Commission (NHRC) of Thailand was successful in ensuring that existing legal provisions for allowing change of legal sex intersex persons were implemented. Under these provisions, intersex persons can petition the authorities to have their legal sex changed.<sup>6</sup> Transgender persons’ legal sex continues to be determined by their birth sex.<sup>7</sup>

5. All males in Thailand are required to serve in the military. However, transgender women, including any males who have undergone sexual reassignment surgery (SRS) or any form of surgery to physically appear more feminine, are not allowed to serve in the military. Until 2011, they were given a dismissal document citing a permanent mental disorder (or a similar term) as the cause. After much lobbying by the LGBT community, the letter now states Gender Identity Disorder as the reason. The change became effective in April 2012.<sup>8</sup>

<sup>6</sup> <http://www.bbc.com/news/world-asia-34149523>

<sup>7</sup> United Nations Development Programme, Being LGBT in Asia: Thailand Country Report. p.17-18, 2014, available at: [https://www.usaid.gov/sites/default/files/documents/1861/Being\\_LGBT\\_in\\_Asia\\_Thailand\\_Country\\_Report.pdf](https://www.usaid.gov/sites/default/files/documents/1861/Being_LGBT_in_Asia_Thailand_Country_Report.pdf)

<sup>8</sup> The Asian NGO Network on National Human Rights Institutions (ANNI),

6. In 2010 at the UN General Assembly, countries opposing sexual orientation and gender identity rights campaigned to remove the words “including sexual orientation” as grounds for protection against extrajudicial killings (IGLHRC 2012). During the time of the General Assembly, LGBT groups approached the Thai Human Rights Commission and asked them to pressure the Ministry of Foreign Affairs to vote against this amendment, held two protests, and delivered a letter to the Cabinet. Regardless of these civil society efforts, Thailand abstained from voting on the issue. However, following continued advocacy, the Thai government ruled in favor of the 2012 General

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2013 ANNI Report on the Performance and Establishment of National Human Rights Institutions in Asia, page 85, 2014, available at: <http://www.forum-asia.org/uploads/books/2013/ANNI%202013-FINAL.pdf>

Assembly resolution A/C.3/67/L.36 on extrajudicial killings, which reintroduced sexual orientation and gender identity into the resolution (UN 2012)<sup>9</sup>.

7. However, same-sex partnerships still have no legal recognition, resulting in many kinds of discrimination against same-sex couples.<sup>10</sup> There are still laws and policies that discriminate against LGBTI individuals.

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<sup>9</sup> United Nations Development Programme, *Being LGBT in Asia: Thailand Country Report*. 2014. Available at: [https://www.usaid.gov/sites/default/files/documents/1861/Being\\_LGBT\\_in\\_Asia\\_Thailand\\_Country\\_Report.pdf](https://www.usaid.gov/sites/default/files/documents/1861/Being_LGBT_in_Asia_Thailand_Country_Report.pdf)

<sup>10</sup> Busakorn Suriyasarn. Sexual Orientation and Gender Identity in Thailand, 2014, p. 27. Bangkok: International Labor Organization.

## B) Discrimination in Employment

8. The visibility of the transgender workforce within the labor market is considered a relatively new phenomenon. Transgender individuals are still facing different kinds of discrimination, beginning with the process of application and selection, and extending to the period of employment. Some have their job applications immediately rejected by both government and private bodies due to their purportedly improper gender identity. Gay men and lesbian women are often questioned about their sexual orientation, while transgender employees are commonly required to dress according to their birth sex. LGBTIs are sexually abused, humiliated, and ignored by their colleagues. Moreover, LGBTI workers rarely receive support in career advancement, promotion or equal payment. All of these reflect a discriminatory working environment for LGBTIs.<sup>11</sup>

9. One tangible example of such discrimination was seen with the dismissal of Kath Khangpiboon, a 28-year-old transgender lecturer at the Faculty of Social Administration at

Thammasat University. She was notified that she would not be given a regular lecturer post after lecturing at the university for 10 months, for questionable reasons.<sup>12</sup> Another case happened in July 2015. A Thai transgender woman who had been working for an international organization for 15 months was dismissed from her position on unjustified claims of her underperformance. Before the dismissal, she had been discriminated against due to her gender identity and there had been no policies regarding safe and friendly spaces for transgender in the organization.<sup>13</sup>

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<sup>11</sup> Busakorn Suriyasarn, p. 27

<sup>12</sup> <http://www.prachatai.com/english/node/5185>

<sup>13</sup> Petition No. 433/2558 of the Nation Human Right Commission

## RECOMMENDATIONS

10. Develop an anti-discrimination legislation and a monitoring body specifically for employment discrimination, with effective implementation mechanisms and consider an Equality and Non Discrimination in Employment and Occupation Act and an independent Equal Employment Opportunity Commission (EEOC) as an advisory and monitoring body.
11. The state should encourage organizations to issue policies, which protect LGBTIs from all kinds of harassment, including but not limited to verbal harassment and ignorance of the company's discriminatory actions toward LGBTI workers. It should also encourage the set-up of reporting mechanisms for discriminatory behavior, which affects the performance of LGBTI workers in the workplace.
12. Since the emergence of the transgender workforce is considered a relatively new phenomenon in many organizations, the state should encourage gender sensitivity trainings for supervisors and executives of such organizations so that they are sensitized to the issue.
13. The state must issue measures and policies that protect LGBTIs who are migrant workers or work for international organizations and are not covered by the Thai labor law.
14. The state must ensure that LGBTIs have equal access to promotions and opportunities in career advancement.

## C) Family

15. According to Article 1448 of the Thai Civil and Commercial Code, a marriage may take place only between a man and a woman who have completed their seventeenth year of age. However, a court may, with appropriate reason, allow them to marry before attaining such age.<sup>14</sup> By implication, this outlaws marriage recognition for same-sex couples or couples in which one party is a transgender person.

16. Unequal marriage law has implications for custody of children, transfer of property and taxation, as Thai law assumes families to consist of a husband, a wife and children. Applications for bank loans, insurance and other financial matters also follow this practice<sup>15</sup> The limitations of the law to cover only heterosexual couples remain despite the fact that in Thailand

same sex couples, transgender couples, bisexual couples and polyandrous couples do exist<sup>16</sup>. Moreover, laws on sexual assault are also a concern for transgender women as there are no explicit statutes against the violation of a neovagina.

17. Before the 2014 coup, there were efforts to draft a law which would allow marriage registration for same sex couples, but the provisions of this draft were considered insufficient by some LGBT activists. For example, transgender individuals would not gain the right to marriage defining their gender in accordance with their current gender identity, in the absence of any gender recognition legislation. Civil society organizations then drafted another draft for a Civil Partnership Act which respected the diversity of “family” and equality for people of all genders. However, after the coup, the CSOs suspended the submission of the draft and decided they would resume

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<sup>14</sup> <http://www.thailawforum.com/database1/marriage-law-thailand.html>

<sup>15</sup> Busakorn Suriyasarn, p. 27.

<sup>16</sup> <http://nypost.com/2015/02/27/thai-throuple-believed-to-be-worlds-first-gay-married-trio/>

the process again after a democratic government had been elected. Nevertheless, CSOs remained concerned about whether the new constitution would permit proposing a new law through a citizens' initiative.

18. In September 2012, there was a case of a lesbian couple who had been together for 8 years. One day, one of the partners fell sick and needed to be taken to an emergency room in a private hospital, but the other partner did not have the right to sign the informed consent form. This caused her partner to pass away the following week. She said that if her partner had received immediate treatment, her life could have been saved. Moreover, the patient could not have the treatment paid by the Civil Servants' Medical Benefit Scheme even though her partner was a civil servant.

19. The absence of a partnership law has also had detrimental effects on the children of LGBTI families, as society deems them incapable of producing offspring, while those who have children from previous relationships remain unacknowledged. There was a case of a same-sex couple who were in relationship and used assisted reproductive technology to have a child, but the child could only be acknowledged by the law by using the name of one of the partner's brother as a father. There is no legal prohibition on LGBT parenthood and child adoptions are treated as single-parent cases. Laws

concerning family matters are found in the Civil and Commercial Code of Thailand<sup>17</sup>.

20. In July 2015, there was a case of a foreign gay couple who received surrogacy service from a Thai surrogate mother. However, after the baby had been delivered, the surrogate mother refused to give the couple their child's custodial rights<sup>18</sup> because she did not believe that a same-sex couple could take care of the child. The Protection of Children Born from Assisted Reproductive Technologies Act B.E.2558 also does not allow same-sex couples to utilize reproductive technologies services. The Act is evidence of existing discrimination against the LGBTIs and disrespect of equal rights for all.

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<sup>17</sup> United Nations Development Programme, Being LGBT in Asia: Thailand Country Report, p.24

<sup>18</sup> <http://www.theguardian.com/world/2015/jul/20/gay-parents-fight-to-leave-thailand-with-surrogate-baby-daughter>

## RECOMMENDATIONS

21.Revise Article 1448 of the Civil and Commercial Code, to refer to marriage as between “two persons.” Ensure that other laws concerning family and property rights use a “married spouse” rather than refer to a “husband” and “wife,” or establish legal guarantees that civil partnership laws provide the same legal rights to same-sex couples as heterosexual couples enjoy through existing marriage provisions, including parenting rights.

22.Revise The Protection of Children Born from Assisted Reproductive Technologies Act B.E.2558 to enable LGBTI couples to access such technologies.

23.Once laws under which LGBTI couples are protected are enacted, the government should set measures to revise regulations in both private and public sectors in accordance with international partnership rights.

24.The state should push for the equality for individuals in all kinds of partnerships when accessing welfare benefits offered by both the private and public sectors.

25.The state should raise awareness in all sectors of society of the diversity and equality of various kinds of families.

26.The state should adjust laws, regulations, practices, processes of government agencies in accordance with the diversification of family life.

## D) School and Education

27. Many feminine male students have reported being afraid of using school toilets or attending overnight school camps; some have indicated that they were ridiculed and not welcomed in either male or female toilets. In one school, group-specific sleeping arrangements had been provided for a group of feminine boys on a school camp upon their request, after they had experienced unwanted sexual advances from other boys. It has been reported that sometimes when LGBTI students inform their teachers that they are being bullied, the teachers respond was that it is their own fault<sup>19</sup>.

28. Teasing and bullying behavior by teachers or school personnel: These behaviors include sarcastic remarks in class, staring, cutting grades without a valid reason, and blaming LGBTI students for things they did not do.<sup>20</sup> Sometimes announcements posted on the school's bulletin boards condemning transgirls

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<sup>19</sup> Mahidol University, Plan International, & UNESCO Bangkok. Bullying targeting secondary school students who are or are perceived to be transgender or same-sex attracted. 2014, p. 82. Available at <http://unesdoc.unesco.org/images/0022/002275/227518e.pdf>

<sup>20</sup> Mahidol University, Plan International, & UNESCO Bangkok, 2014

and tomboys (feminine males and masculine females, respectively).

29. Negative portrayals of LGBT people abound in secondary school health education textbooks, for example labeling them deviants and advising that sexual deviants should keep their abnormality a secret, that their acquaintances should keep a distance from them and not enter into a relationship with sexual deviants.<sup>21</sup> This leads to an unsafe educational environment for young LGBT persons.

30. Thai students have to wear either 'male' or 'female' school uniforms based on their birth sex. Event though some universities have rectified their dress codes after much campaigning to allow transgender students to wear uniforms based on their chosen gender, this has yet to be seen in primary and secondary schools. This leads to an unsafe educational environment for young LGBTI persons, further exacerbated by punitive regulations and pressure for students to conform to existing dress codes.<sup>22</sup>

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<sup>21</sup> <http://www.bangkokpost.com/print/434916>

<sup>22</sup> <http://www.pinknews.co.uk/2015/06/10/top-thai-university-changes-uniform-guidelines-to-accommodate-trans-students>

## RECOMMENDATIONS

31. Eliminate gender-based dress codes or ensure that transgender students can choose which uniforms to use.
32. Develop and enforce clear anti-bullying policies covering students of all genders, emphasizing management of bullying perpetrators in a manner involving no discrimination on the basis of the sex, sexual orientation or gender expression of either perpetrators or victims.
33. Integrate content and participatory activities increasing understanding of the extent and consequences of bullying and teasing into various existing school subjects, for example into sex education, guidance, or homeroom classes.
34. Build safe spaces for LGBTI students, for example through the provision of “third gender toilets” for male-to-female transgender students, activity rooms or separate sleeping arrangements as one way to prevent bullying targeting this group of students.
35. Revise current educational curricula in each subject and remove biased terminology and explanations related to sexual/gender diversity.
36. Provide channels of assistance to bullied students, e.g. hotlines, web boards, or mobile applications.
37. Promote acceptance of sexual/gender diversity within society at large through public campaigns, popular media, or activities of civil society organizations.
38. Create collaboration networks between schools and civil society organizations working on sexual/gender diversity and gender-based violence.

## E) Media and Publications

39. At present, LGBTI mainstreaming in the media has gained much acceptance in many countries around the world. However, mainstream Thai media still portray LGBTI people in a negative way, or as stock characters or comic relief on television shows. There is a substantial lack of official media reporting on the incidence of harassment, discrimination and violence towards LGBTI people.

40. Thai-language tabloid newspapers are notorious for headlines saturated with derogatory and sensational portrayal of LGBT stories, particularly those concerned with murder and violence. In March 2015, Thai Rath, a popular tabloid, described the “Lou Queernalva,” an LGBTI carnival held in Nice, France, as a party for “sexual deviants.” “There were many queers joining the event from lesbian to gay and bisexual people.”<sup>23</sup>

41. In 2012, the LGBTI community was angered at a local bookstore chain’s (Se-Ed Books’) policy to ban or label publications with LGBTI content in the same category as pornography. Activists mobilized against this with much support from both LGBTI and non-LGBTI communities. The bookstore issued a letter to its publishers on its screening standards, classifying all LGBTI content

as erotica and inappropriate material for minors.<sup>24</sup>

42. In 2010, the gay-themed film ‘Insects in the Backyard,’ which was directed by a transgender woman, was banned by the Ministry of Thai Culture’s National Film Board.<sup>25</sup> The movie was seen by the board as a “disruption of national order and public morals,” and was banned using Article 29 of the Film Act 2010.<sup>26</sup> According to the director, “the ban is a signal to film-makers that gay-themed films featuring negative portrayals of Thai society will be taboo.”<sup>27</sup> The filmmaker appealed the decision. The case has been pending in the Constitutional Court for three years. This instance is the first time since the enactment of the Film Act 2008 that a movie was banned because it dealt with the issue of sexual orientation and gender identity.

46. Public or private health care services do match all the needs of individuals resulting from gender and sexual diversity, notwithstanding

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<sup>24</sup> United Nations Development Programme, Being LGBT in Asia: Thailand Country Report, 2014, p.24

<sup>25</sup> <http://www.nationmultimedia.com/2010/12/23/national/Film-board-bans-Insects-in-the- Backyard-30145028.html>

<sup>26</sup> <http://pages.citebite.com/i2a6l7wlxkh>

<sup>27</sup> <http://news.asiaone.com/News/Latest+News>Showbiz/Story/AIStory20101223-254330.html>

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<sup>23</sup> <http://bangkok.coconuts.co/2015/03/05/thairath-blasted-calling-lgbt-sexual-deviants>

## RECOMMENDATIONS

43. The State should monitor publication content and implement penalties or warnings for publications which publish derogatory content, while providing remedies when violations take place. The State should also provide channels for the general public to report incidents of discriminatory content or actions of various publications.

44. The State should collaborate more with CSOs in developing standards for publications in lieu of an increase in respect and sensitivity to news coverage according to the principles of journalism ethics and respect for the rights, freedoms, and equal human dignity.

45. The State should promote gender sensitivity training for journalists, editors, and those involved in publications so as to promote perspectives towards sexual orientation and gender identity that respects the rights and diversity of LGBTI people in a manner that upholds equality and human dignity.

## F) Health

standing Article 30 in the 2007 constitution that forbade discrimination on these grounds<sup>28</sup>. Gaps have been identified particularly in sexual health and mental health<sup>29</sup> services. Issues such as inappropriate ward placements have also been noted in general health care; public health insurance plans do not cover gender transitioning treatments, and same-sex partners of employees that have family health care plans through their work are not covered by such plans unlike hetero-

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<sup>28</sup> Constitution Drafting Assembly, Intentions of the Constitution of the Kingdom of Thailand, B.E. 2550 [in Thai], p. 22, available at [http://library2.parliament.go.th/giventake/content\\_cons50/cons50-intention.pdf](http://library2.parliament.go.th/giventake/content_cons50/cons50-intention.pdf)

<sup>29</sup> Timo T. Ojanen. Mental health services and sexual/gender minority clients in Bangkok, Thailand: Views by service users and service providers. 2010. Master's thesis, Assumption University, Bangkok, Thailand. Available at <http://web.hku.hk/~sjwinter/TransgenderASIA/timothesis2010.pdf>

sexually married partners<sup>30</sup>.

47. The lack of knowledge, skills and prejudiced attitudes of some health care providers toward LGBTI persons also represents a barrier to health and well-being. Many LGBTI individuals while seeking health care services have faced discrimination in the form of unequal standards of health care given to LGBTI persons, including provision of inappropriate advice, the disclosure of sensitive and private health information, refusal to provide treatment, placing of transgender persons in hospital wards not in accordance with their gender identity, and the perception by health care professionals that LGBT persons are mentally unstable<sup>31</sup>.

57. The issues concerning LGBTI individuals crosscut into other issues. There are individuals who are sex workers, live

<sup>30</sup> United Nations Development Programme, Being LGBT in Asia: Thailand Country Report, 2014, p. 37-40

<sup>31</sup> Timo T. Ojanen, 2010, p. 56.

## RECOMMENDATIONS

48. The new Constitution should protect the rights and ensure that the health care needs of LGBTI persons are met by explicitly specifying LGBTI people as prohibited grounds for discrimination.
49. Develop and mainstream an LGBTI sensitivity curriculum for health care providers.
50. Provide standardized and comprehensive health care services for transgender men and women (e.g., sex hormone supplementation or puberty blockers as a sole treatment or in combination with sex reassignment surgery, antiretroviral therapy, or other required treatments, for both transgender women and transgender men).
51. Conduct research on the HIV risks of LGBTI populations, including Bisexual and lesbian as MSM and Transgender people.
52. Encourage health funding for LGBTI communities for a broader range of issues than only the treatment of disease; introduce community-managed health funding schemes.
53. Develop sensitivity on LGBTI issues among mental, sexual and other health care providers through the provision of training.
54. Encourage the state to allocate resources to raise awareness about sexual and gender diversity; hold the state accountable for human rights abuses and discrimination against LGBTI individuals in health care.
55. Ensure that gender mainstreaming policies for health care include traditionally marginalized groups such as transgender men and women, intersex individuals, and lesbian or bisexual women.
56. Ensure that same-sex and transgender partners can provide permission for performing medical procedures on their partners when their partner cannot do this due to a health condition.

## G) Intersectionality

with HIV, use recreational drugs, belong to indigenous ethnic groups, are a part of the labor force, are migrant workers, have formerly been incarcerated, are homeless, are victims of domestic violence, live in the conflict areas of the three Southern-most border provinces of Thailand, are stateless (to name a few) in addition to being LGBTI. LGBTI individuals may be

further marginalized by such additional attributes, made more vulnerable, prevented from accessing their rights and other opportunities in life.

59. Thailand lacks appropriate and effective laws and policies to protect HRDs.

## RECOMMENDATIONS

58. The state should play a role in creating equality and justice and in eliminating all kinds of discrimination. The state should also adjust its mindset regarding equality and justice according to universal human rights principles and promote education about these principles to all social institutions including families, communities, educational institutions, religious organizations, mass media, legal institutions, concerned organizations in the justice system, health care institutions, and so on.

## H) Human Rights Defenders (HRDs)

60. Judicial systems and procedures for the protection of LGBTI individuals remain undeveloped. This is due to the lack of sensitivity, stigma and inaccurate perceptions towards the issues and rights of LGBTI people both among heterosexuals and LGBTI people themselves.

61. The situation of transgender people working as HRDs in Thailand has deteriorated, as demonstrated by the cases described below.

62. Among the few transgender activists, who work on human rights issues, Saran Chuchai (also known as Aum Neko, a transgender woman student at Thammasat University) raised questions over the philosophy of her university through a series of campaigns. In 2012, she posed in a sexually explicit manner by the university founder's statue and questioned whether showing respect to the statue is consistent with principles of human equality<sup>32</sup>.

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<sup>32</sup> <http://www.nationmultimedia.com>.

Later, Aum released an anti-uniform campaign through posters filled with sexually explicit content, which stirred criticism both from within the university and the general public<sup>33</sup>.

She received a suspension for two semesters<sup>34</sup>. On July 1, 2014, a right-wing newspaper, ASTV Manager, published a “mock column” which threatened Aum with sexual violence, because she had criticized Thailand’s lèse majesté law. The column described in vivid detail a fictitious scenario in which Aum, if captured and imprisoned, would repeatedly face sexual assault to “return happiness” to other inmates (making a reference to the junta leader’s “returning happiness” campaign)<sup>35</sup>.

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[com/opinion/Thailands-SMART-LADY-has-emerged-30215115.html](http://www.prachatai.com/english/node/5082)

<sup>33</sup> <http://www.prachatai.com/english/node/5082>

<sup>34</sup> <http://www.prachatai.com/english/node/3690>

<sup>35</sup> <https://asianhrds.forum-asia.org/?event-violation=sexual-orientation>

After the coup, she was summoned to report to the National Council for Peace and Order (NCPO). The risk of being sentenced for a prison term for lèse majesté by a military court and the fact that she would be forced into a male prison made her decide to leave the country<sup>36</sup>.

63. Natchacha Kong-Udom, a transgender student, joined a demonstration on civil and political rights in September 2014, during which she raised the junta-banned three-finger salutation, adopted as a sign of resistance to military rule, in front of a cinema; she was arrested and brought to Pathumwan Police Station and later to the Army Sports Center<sup>37</sup>. In December 2014, she displayed protest signs such as “Where is the National Human Rights Commission (NHRC) when the guns come out?” NHRC Chairperson Amara Pongsapich was caught off guard by a sudden disruption at the police station for failing to obey the prohibition set by the National Council for Peace and Order.

Meanwhile, Kong-udom lodged a police report at Thung Song Hong Police Station

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and-gender-identity

<sup>36</sup> <http://www.prachatai.com/english/node/5082>

<sup>37</sup> <http://www.theatlantic.com/international/archive/2014/11/five-arrested-the-hunger-games-three-finger-salute-thailand/383020/>

against plainclothes military officers whom she accused of harassing her and threatening her with sexual assault at the NHRC event. On the same day the Special Branch Division 3 of the Police Department visited her family in Nong Khai Province<sup>38</sup>.

After the incident, she participated in an event titled “One Year After the Coup” on May 22, 2015 leading to an arrest warrant being issued for her, and her being taken into custody again on June 24, 2015. A bail request was submitted but the court ruled to have her incarcerated in a men’s facility although a request was also submitted to the military court for her to be kept in custody at a women’s facility. This request was turned down on the grounds that she was born male and no laws allow transgender people to have their legal sex changed. While in prison, she was verbally abused, constant threats were made by male inmates and she was also subjected to continuous body searches by male officers who her to appear in front of them naked. This is only one of numerous examples of how a transwoman suspect in custody would be treated as a “male” inmate in Thailand<sup>39</sup>.

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<sup>38</sup> <http://www.prachatai.com/english/node/4598>

<sup>39</sup> <http://www.prachatai.com/english/node/5224>

## RECOMMENDATIONS

64. Provide legal security to allow LGBT activists who are also HRDs to carry out their work for the protection and promotion of human rights.
65. Establish national policies and strategic implementation to guarantee rights, build awareness, and eliminate stigmatization, bias and stereotyping.
66. Ensure legal gender recognition.
67. Build gender sensitivity within all contexts and segments of society.
68. Integrate said issues with other propelling rights, i.e., economic, political, social and cultural rights, as a part of the general human rights framework.

# LGBTI-UPR Thailand Working Group

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