



THAILAND

Joint UPR Submission to the UN Universal Periodic Review

39th Session of the UPR Working Group

Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) Rights in Thailand

Submitted on 25 March 2021

1. Introduction

- 1.1. In this submission, *Manushya Foundation*, *BUKU Classroom*, *Rainbow Sky Association of Thailand (RSAT)*, *Health and Opportunity Network (HON)*, *Sirisak Chaited*, *MPlus Foundation*, *CAREMAT*, *Andaman Power*, *Rainbow Dream Group Thailand*, *Ruangaroon Lampang Group* and *Tamtang* examine the compliance of the Thai Government with the recommendations received during the 2nd UPR cycle of Thailand, particularly in relation to the protection of the rights of the LGBTIQ+ community in the country. In this context, we analyse the efforts made by the government to implement recommendations received related to compliance of domestic legislation with international human rights standards, protection of the rights of vulnerable groups, and prevention of discrimination and violence against LGBTIQ+ people. The authors then draw specific, measurable and result-oriented recommendations to address to ensure that the rights of LGBTIQ+ persons in Thailand are respected and upheld.
- 1.2. During the 2nd UPR cycle, Thailand received a total of 34 recommendations in relation to the rights of LGBTIQ+ individuals. Of these recommendations, it supported 33 recommendations and noted one. However, none of the recommendations directly addressed the human rights and equal treatment of the LGBTIQ+ community, showing therefore a lack of understanding of the issues faced by LGBTIQ+ people, at the international level.
- 1.3. We are deeply concerned with Thailand's treatment of LGBTIQ+ people, who are insufficiently protected by Thailand's legal framework, and are facing severe challenges in accessing their human rights, as well as barriers in accessing public services, particularly healthcare. Even though Thailand hosts one of the larger LGBTIQ+ communities in Asia, an estimated 4.5 million in 2018, Thailand has way to go in terms of embracing the community, both on a societal and normative level. Until now, the Thai government failed to put in place a comprehensive approach to recognise non standardised and non-binary sexual relations, gender identities and expressions, as well as coherent practices which will standardise and regulate the rights of the LGBTIQ+ community. Consequently, the rights of the LGBTIQ+ community are severely violated, they are discriminated against, and experience stigma and violence.



1.4. This submission indicates that LGBTIQ+ face severe challenges in accessing their human rights, in the following manner:

- Section 2 discusses the lack of legal framework protecting the rights of LGBTIQ+ persons, and the lack of recognition of transgender identity.
- Section 3 discusses the absence of legislation recognizing same sex marriages.
- Section 4 discusses discrimination faced by LGBTIQ+ individuals in employment, the education system, and military conscription.
- Section 5 discusses the discrimination and harassment faced by LGBTIQ+ individuals in the private spheres.
- Section 6 discusses intimidation, transphobic attacks and judicial harassment faced by LGBTIQ+ persons because of their SOGIESC status, human rights work and activism.
- Section 7 discusses barriers faced by LGBTIQ+ persons in accessing healthcare services.
- Section 8 discusses the misinterpretation of LGBTIQ+ persons are misrepresented in the media and underrepresented in politics.
- Section 8 discusses the impacts of COVID-19 on the lives of LGBTIQ+ individuals.
- Section 9 includes recommendations to the Thai government, addressing the challenges and rights violations discusses in foregoing sections.

Section 2. Lack of legal framework protecting the rights of LGBTIQ+ persons, and the lack of recognition of transgender identity

2.1. During its 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the adoption of legislation protecting the rights of LGBTIQ+ individuals. However, it received one recommendation regarding the effective implementation of the Gender Equality Act of 2015,¹ and one on the adoption of a comprehensive anti-discrimination law which includes all grounds for discrimination. It supported the former and noted the latter. However, the government failed to implement either of the recommendations, as evidenced below.

2.2. The Gender Equality Act of 2015 defines unfair gender discrimination and creates protections for people who identify themselves as male, female or of a different appearance from sex assigned at birth. The legislation has been adopted in line with the sections 4 and 27 of the 2017 Constitution of Thailand, stipulating that all persons are equal before the law and shall enjoy equal protection under the law. According to Section 27 of the Constitution, unjust discrimination against a person on the grounds of origin, race, language, sex, age, physical or health condition, personal status, economic or social standing,



religious belief, education, or constitutional political views, shall not be permitted. Even though the constitution does not directly mention LGBTIQ+ individuals, the law indirectly protects their rights against abuse and discrimination by affirming that discrimination against people on the grounds of the difference in sex is not permitted.

- 2.3. The Gender Equality Act and its committee have proven to be in some ways helpful in bringing justice to the discriminated and marginalised. Since its introduction, the committee has taken on some cases such as discriminatory job advertisement, university students being banned from dressing in their chosen gender-specific uniforms, transgender women having job applications refused for not dressing and looking like men. However, the Act is still under-used and two challenges are observed in the Act, namely the fact that it is under dispute whether the law covers also sexual orientation and, second, the law permits discrimination if done in order to provide welfare and safety protection, in accordance with religious principles or for national security reasons. These provisions highly undermine the act and the application of equality in the country. Therefore, discrimination and abuses will continue to affect LGBTIQ+ individuals on multiple levels encompassing both on a legal and cultural level ²
- 2.4. In Thailand, transgender identity is not legally recognised. The Person Name Act, 1962, prohibits making changes to one’s legal title, sex, and gender in official documents for transgender people; and allows it for intersex people under strict conditions (upon showing of medical proof of intersexuality at birth and after a gender confirmation surgery). The law is therefore inherently discriminatory as it denies transgender persons their right to identity and self-determination. In July 2019, an NGO supporting legal gender recognition for transgender people made an attempt to push for a bill that would have allowed transgender people to change their title, after they undergo sex reassignment surgery. However, Thai society is against the idea: some fear that criminals would take advantage of the law to change themselves and to avoid paying for their crimes. Others think transgender women will take this opportunity to fool men into marriage. However, those opinions are shaped without taking into consideration how long and full of difficulties the process of sex reassignment is, both on a physical and psychological point of view.
- 2.5. To achieve recognition of transgender persons, the Ministry of Social Development and Human Security (MSDHS) drafted a gender recognition bill. This bill seeks to allow transgender people to change their legal title without undergoing sex reassignment. It was submitted to the parliament in October 2020. However, while a step in the right direction, it was noted by Tunyawaj Kamolwongwat, MP from Move Forward Party, that the bill he had drafted on gender recognition was different from the government’s version, and that the law would not be able to put an end to discrimination against transgender persons.³
- 2.6. The UNDP supported study “Legal Gender Recognition in Thailand: A Legal and Policy Review” (May 2018) illustrates how the absence of a law that enables transgender people to change their title, sex or gender on official documentation can create significant barriers to social inclusion, access to health and social services and enjoyment of human rights. For example, a university refused to deliver to a transgender woman a certificate and transcripts upon completion of her degree because she submitted a photo in which she looked like a woman, while her identification documents had male gender markers ⁴.



Section 3: The absence of legislation recognising same-sex marriages

- 3.1. During its 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing the legal recognition of same-sex marriages. However, it received one recommendation calling upon the Thai government to adopt a comprehensive anti-discrimination law which includes all grounds for discrimination. Nonetheless, the government only noted it and did not further its implementation.
- 3.2. Thai law does not recognise same-sex marriages. The Civil and Commercial Code Section 1148 stipulates that: “A marriage can take place only when a man and woman have completed their seventeenth year of age...”. Mentioning man and woman, the law does not allow for same-sex-marriages, and directly infringes upon people’s right to equality and non-discrimination, principles included in the 2017 Constitution, and the Gender Equality Act of 2015. Since 2014, civil society organizations have been advocating to legalise same sex by amending Section 1148 of the Civil and Commercial Code to ensure that same sex couples would be granted equal rights and protection under the law.⁵
- 3.3. On 8 July 2020, the Cabinet approved the Civil Partnership Bill, which has been drafted since 2014. After being approved, the Bill was submitted to the House of Representatives Coordination Committee before it will be submitted to Parliament. Only after the bill is approved by the Parliament, it will become law. This bill allows same-sex couples to register their partnership. However, registering a civil partnership does not equal marriage, and therefore under this bill same-sex couples registered do not enjoy the same rights and protections as married couples.⁶ Instead, the bill focuses on aspects such as adoption, acting on behalf of their partner in legal proceedings if the partner is injured or passed away, inheritance matters, alimony, and property. By not providing same-sex couples the same rights as heterosexual couples, the draft law violates Sections 4 and 27 (on equality and non-discrimination) of the Thai Constitution of 2017. As this bill does not provide marriage equality, the bill is criticized by LGBTIQ+ rights activists, who note that through this bill LGBTIQ+ couples are treated as second-class citizens.⁷
- 3.4. At the same time, Move Forward Party MP Tunyawat Kamolwongwat proposed a bill to amend the Civil and Commercial Code, to change the terminology in the Code to use ‘spouse’ instead of ‘husband and wife’ and ‘person’ instead of ‘man and woman’ so that individuals can be legally married regardless of their gender. If this bill would pass, all married couples, including same-sex couples would be guaranteed equal rights, duties, and protections under the law. The bill went on the parliament’s public consultation platform for the public to provide their input and comments⁸ but the parliamentary deliberations have been queued due to more urgent issues to be discussed at the National Assembly.⁹ Therefore, the Foundation for SOGI Rights and Justice submitted a complaint to the Central Juvenile and Family Court towards the end of 2020, questioning the constitutionality of Section 1448 of the Civil and Commercial Code with Section 27 of the 2017 Constitution (related to equality of all persons before the law). The court hearing is scheduled on 26 April 2021.¹⁰

Section 4: Discrimination faced by LGBTIQ+ individuals in employment, the education system, and military conscription



- 4.1. During its 2nd UPR cycle, the Thai government received no recommendation specifically addressing discrimination in employment or the education system on the grounds of sexual orientation and gender identity. It received, however, the recommendation to promote equal participation of all members of the society, which it supported, and to adopt an anti-discrimination law, which it noted. Additionally, the government received seven recommendations related to vulnerable groups' access to education, which it all supported. However, as evidenced below, the government failed to implement the recommendations regarding LGBTIQ+ individuals, who continue to face persistent stigma and discrimination in all stages of employment, including during the recruitment phase and in the workplace, as well as in the education system. This is problematic, as discrimination against LGBTIQ+ individuals in these areas limits their development, career advancement opportunities, leads to a pay-gap, lower job security, and limited access to social benefits. For more information about discrimination faced by LGBTIQ+ students in the education system and in the military, kindly refer to our UPR Submission on LGBTIQ+ Youth.
- 4.2. Discrimination towards LGBTIQ+ individuals in employment and in the educational system are made possible through institutions' policies, which vary. For example, certain schools allow trans teacher to work in their premises and to dress according to their preferences, while others do not. The same happens to students, who in some cases are barred from campuses due to their appearance or sexual preferences. This is possible because there are no clear guidelines on uniform policies for transgender students. Examples of discrimination due to the lack of norms is the growing number of nightclubs in major cities banning transgender persons from entering their premises, the decision taken by Thai Red Cross Society barring LGBTIQ+ people from donating blood, as well as discriminating policies and practices for LGBTIQ+ when acceding toilets.
- 4.3. Within the LGBTIQ+ community, transgender persons and masculine lesbians are usually more affected when acceding the labour market, because exclusion tends to occur at the interview stage, once their legal gender title is found to be different from their appearances. As reported by the World Bank, 3 out of 4 transgender people face discrimination during job application, such as undergo psychological test not given to other applicants, and at work. This is illustrated in the case of Thanyaluk Lertrirak (June), a transgender woman victim of gender discrimination, who applied to Cute Press, a subsidiary of SSUP group. June's application was denied on the ground that the position was only opened for cisgender women; a rejection that had deep implications on her mental health and self-acceptance ¹¹. In another case, discriminatory actions were reported in the hiring process against Ms. Pairie perpetrated by Adecco New Petchburi Co., Ltd, for Thai Samsung Electronics Co., Ltd.¹² In both Adecco and SSUP cases, Manushya Foundation and RSAT will be working together with these companies to ensure they comply with the UNGPs¹³ and the LGBTI Standards ¹⁴. They were already invited by SSUP group to a meeting to discuss the implications of June's case and share their expertise on Business and Human Rights in September 2020.¹⁵ In another case, Worawalun Taweekarn, was barred to become a teacher on the grounds of being a trans woman ¹⁶.
- 4.4. As shown by 2018 studies conducted by the World Bank and by UNDP, the majority of LGBTIQ+ persons have experienced discrimination in access to employment, as well as in career advancement and social security benefits¹⁷. Hostile work environment manifests itself also in the form of jokes, gossips, insensitive comments, intrusive questions, bullying, and insults. It can also result in serious forms of physical and sexual violence. Often, discrimination and practices amounting to hate crimes lead transgenders to work in limited stereotypical jobs, such as make-up artist, cabaret or show biz.



- 4.5. Transgender people often blame, for the lack of job opportunities, the unfair and discriminatory practices in the job market, which lead them often to work in bars or become sex workers. Thus, there is a vicious cycle: transgender people are discriminated and face stigma because they are associated with the sex industry, but the stigma leads them to have no choice other than to become a sex worker.
- 4.6. Problematically, when LGBTIQ+ individuals face discrimination, they do not have access to remedy they require, due to their underrepresentation in government structures, employers' organisations, and trade unions. Additionally, their interests are rarely discussed in social dialogue or in collective bargaining agreements. Consequently, when they encounter harassment and bullying, the avenues for workplace disputes resolutions around such issues are limited.

Section 5: Discrimination and harassment faced by LGBTIQ+ individuals in the private spheres

- 5.1. During its 2nd UPR cycle, the Thai government did not receive any recommendation specifically addressing discrimination and sexual harassment faced by LGBTIQ+ individuals in the private spheres, such as within their families and at home. However, the government received 17 recommendations related to discrimination, particularly against women, of which it supported 16 and noted one.
- 5.2. In Thailand, LGBTIQ+ individuals are being stigmatized and discriminated against, even by their family members.¹⁸ Demographic and socio-economic factors such as ethnicity, income, biological sex and religion influence the level of stigma and discrimination against LGBTIQ+ people. Generally, middle-class and upper-class families place more value towards 'saving face' and protecting family reputations than low-income families. On the other hand, LGBTIQ+ people from wealthier families may have more life options because of their financial status. Also, a UNDP 2019 national survey on experiences of discrimination and social attitudes towards LGBTIQ+ people in Thailand demonstrated that the general population is more accepting LGBTIQ+ people outside of their family than those within their immediate family. Consequently, LGBTIQ+ individuals may feel more accepted by people outside of their family, thus leading them to be more open about their sexuality with their social networks.¹⁹
- 5.3. Not being accepted by their families, LGBTIQ+ individuals experience severe challenges. For example, families who do not accept the sexual preference or identity of their children may pressure them into marriage with someone of the different sex as a way of hiding the person's sexuality, or even in the hope that the marriage will eliminate same-sex desires and behaviours. Problematically, lack of family acceptance leads to LGBTIQ+ individuals hiding their identity and withdrawing from social support networks.²⁰ Additionally, lack of acceptance results in self-stigma and severe mental health issues: particularly in rural areas there are higher rates of suicidal attempts of LGBTIQ+ individuals. This is also evidenced in a study of the UNDP, conducted in 2018, during which half of the LGBTIQ+ respondents reported to have contemplated suicide, while one-sixth attempted it.

Section 6: Intimidation, Transphobic attacks and Judicial Harassment of LGBTIQ+ persons because of their human rights work and activism



- 6.1. During its 2nd UPR cycle, Thailand previous UPR examination, the government received 9 recommendations on the protection of human rights defenders, journalists, and civil society representatives which are applicable to the case of LGBTIQ+ rights defenders. For example, the government committed to several recommendations including to “ensure that human rights defenders in Thailand are treated in accordance with the UN General Assembly Declaration on Human Rights Defenders.” Of the recommendations received, 8 were accepted and 1 was noted. However, as examined in this section, the government has failed to effectively operationalize these recommendations in respect to LGBTIQ+ individuals defending human rights.
- 6.2. In January and February 2021, 21-years-old transgender woman Phetcharin, from Loei province located in Northern Thailand, faced gender-based hate crimes because of her sexual orientation and gender identity. The hate crime against her occurred in the form of threatening messages and phone calls from a man who claimed to be a journalist from Thairath TV. The man also visited her house and conducted an investigation on her to find personal information about her, place where she had worked, lawsuits she was engaged in, etc. He did not only threaten Ms. Phetcharin, but also contacted her mother and other acquaintances. The journalist threatened when she refused to give him an interview regarding an incident that had occurred earlier in January involving Ms. Phetcharin. After that, the journalist continued to pressure Ms. Phetcharin to give him an interview, which he did through threats.²¹
- 6.3. Feeling scared and unsafe, Ms. Phetcharin reached out to the Rainbow Sky Association of Thailand, to seek help. At the Association, she was assisted by Ms. Nada Chaiyajit, transwoman, human rights lawyer, and prominent LGBTIQ+ activist. However, when Ms. Nada assisted Ms. Phetcharin and contacted the journalist regarding the incident and the threats, Ms. Nada also started receiving transphobic threats, including death threats, through messages and phone calls in which he warned her to ‘stay out of his business’. In the messages to both transgender women, the journalist made clear that he hates transgender women, whom he called “faggots”.²² Both women became targets of the harassment as a result of their SOGIE, Ms. Nada additionally due to her legitimate human rights work and legal assistance to Ms. Phetcharin. Eventually, Ms. Phetcharin was forced to relocate from Loei province in order to ensure her safety and that of her family members, and both women will need to receive mental health support in order to restore their well-being and prevent trauma. With support of Manushya Foundation and the Rainbow Sky Association of Thailand, Ms. Nada and Ms. Phetcharin have submitted a complaint letter against the journalist to the Thairath TV on 12 February 2021, requesting effective investigation and justice.²³
- 6.4. In early February 2021, an LGBTIQ+ and sex workers rights defender Sirisak Chaited “Ton” and Chanya Rattanathada “Panan”, Thai transgender woman, LGBTIQ+ rights defender and co-founder of Young Pride Club, were charged under the Covid-19 Emergency Decree for joining pro-democracy protests in Chiang Mai in November 2020 where they publicly advocated for equality, justice and real democracy. On 16 February 2021, they were summoned to the Chiang Mai Police Station together with 32 other people to acknowledge their charges.²⁴ Their accusation is another case of the Thai government’s actions to suppress legitimate human rights defenders’ activities under the disguise of emergency measures.

Section 7: Barriers faced by LGBTIQ+ persons in accessing healthcare services



- 7.1. During its 2nd UPR cycle, the Thai government did not receive any recommendations specifically addressing the right to health of LGBTIQ+ persons, however, it received eight recommendations addressing the right to health of vulnerable populations, which it all supported. Among others, the Government committed to ‘develop the health system through the strengthening of the right to enjoy health for all segments of the society and to facilitate access to health services for all the population in the Thai territory’. However, as evidenced below, the government failed to implement these recommendations with respect to the LGBTIQ+ community, who continue to face severe barriers in accessing healthcare services.
- 7.2. LGBTIQ+ people experience barriers in accessing health care and social services, and in some cases, they are being denied medical services and treatments.²⁵ Often, health care providers do not take patients’ confidentiality seriously and reveal information about their SOGIE to their family or community, which is problematic due to the discrimination and stigmatisation they face within their families. In other instances, LGBTIQ+ patients are being mistreated, often because of their appearance or in relation to their positive HIV status. As reported by the UN survey of 2019, one in five LGBTIQ+ respondents faced difficulties accessing mental health services, hormone therapy and gender-affirming surgery.²⁶
- 7.3. Resulting from stigma, discrimination and acts of prejudice in the Thai society and by healthcare personnel, LGBTIQ+ persons are unwilling to access medical healthcare, both in relation to physical and mental issues. This is also demonstrated by the fact that more than half of LGBTIQ+ people is unaware of their HIV status, especially among youth and bisexual women.

Section 8: Misinterpretation of LGBTIQ+ persons in the media, and insufficient representation in politics

- 8.1. During its 2nd UPR cycle, the Thai government did not receive any recommendation addressing the problematic underrepresentation and negative portrayal of the LGBTIQ+ community in the media. Nonetheless, as evidence below, this issue deserves attention, as LGBTIQ+ individuals are often portrayed with derogatory terms. This does not only harm self-acceptance and well-being of LGBTIQ+ individuals, it also causes discrimination and stigma against them.²⁷
- 8.2. LGBTIQ+ identities are vastly underrepresented in Thai news media, and often times, they are represented inaccurately, stereotypically, harmfully or without a clear understanding of their sexual orientation or gender identity and expression. A 2019 study conducted by Fongkaew found that gay men or Men who have Sex with Men (MSM) and Male to Female transgender people are overrepresented in the media compared to Female to Male transgender persons, lesbians, bisexuals, queer and/or intersex people. It was also found that 88 percent of news stories are based on secondary sources and do not include the voices of LGBTIQ+ people themselves.²⁸ Media also play on stereotypes associated with LGBTIQ+ identities.
- 8.3. In politics, LGBTIQ+ individuals are also underrepresented, with only three LGBTIQ+ Parliamentarians sitting at the National Assembly: Thunyawaj Kamolwangwat (Move Forward Party), Nateepat Kulsetthasith (Move Forward Party), and Kawinnart Takee (Thai Local Power Party). Although it is seen as a progress for Thailand, the representation of the LGBTIQ+ community at the Parliament remains



insufficient compare to the vibrant and large LGBTIQ+ community in the country. In 2019, the Parliament created a specific committee to address challenges faced by vulnerable populations, the ‘Committee on Child Affairs, Youth, Women, Elderly, Persons with Disabilities, Ethnic Groups and LGBTQ people’, composed of members from vulnerable groups.²⁹ While this can be seen as a progress, it would be important for the LGBTIQ+ community to engage within a sub-committee specific to SOGIESC issues so that they can lobby for their own rights and effectively tackle rights violations and discrimination.

Section 9. The impacts of COVID-19 on the lives of LGBTIQ+ Individuals

- 9.1. The COVID-19 crisis exacerbated the challenges faced by the LGBTIQ+ community, leaving them more vulnerable than others regarding economic impact, violence and discrimination and access to health. The pandemic has worsened the situation where LGBTIQ+ people have already struggled.
- 9.2. LGBTIQ+ individuals have been particularly hit by the economic impact of the pandemic. Many of them worked in industries such as entertainment, tourism or sex work which were the most affected due to the lockdown.³⁰ Those employed in the informal or irregular sectors were very likely to live without incomes and struggle to find shelter.³¹ An online survey conducted by the UNDP Thailand and the Asia Pacific Transgender Network found that 47% of the LGBTI population lost their jobs or were forced to go on unpaid leave.³² After being laid off, many of them were forced to come back to their families and were thus exposed to physical and emotional violence within the family unit, which was reported by 14% of respondents³³. Access to benefits from the government COVID-19 response was hindered by complex procedures as many documents are required, which makes application difficult for LGBTIQ+.³⁴ This was demonstrated by the survey which revealed that and 51% of respondents did not receive assistance from the government. The pandemic also had an impact on their access to healthcare and medication as community clinics, where they used to go, were closed, causing trouble in finding hormones and HIV treatment. Even if public hospitals can provide the same treatment, they were unwilling to go there because of possible discrimination and prejudice from healthcare providers.³⁵
- 9.3. The pandemic also impacted legislative processes and impeded legal developments of LGBTIQ+ rights. A proposed same sex marriage bill aimed at improving the rights of this community was postponed and delayed by other more urgent issues. The current legislation protecting LGBTIQ+ individuals from discrimination is the Gender Equality Act, a flawed Act, adopted in 2015. A panel established to review this law has yet to meet and make any progress because of the COVID-19 pandemic.³⁶

Section 10. Recommendations to the Thai Government

Manushya Foundation, BUKU Classroom, Rainbow Sky Association of Thailand (RSAT), Health and Opportunity Network (HON), Sirisak Chaited, MPlus Foundation, CAREMAT, Andaman Power, Rainbow Dream Group Thailand, Ruangaroon Lampang Group and Tamtang make the following specific recommendations to the Thai government to ensure that the rights of LGBTIQ+ individuals are being protected and upheld.



10.1. Regarding the lack of legal framework protecting the rights of LGBTIQ+ persons, and the lack of recognition of transgender identity

- a. Revise Section 27 of the 2017 Constitutional to unequivocally mention and recognise SOGIE, de facto ensuring that all people, including LGBTIQ+ persons, are entitled to enjoy the same protections provided in international human rights law and domestic legislations, including with respect to the right to life, security of persons and privacy, the right to be free from discrimination and the right to freedom of expression.
- b. Guarantee that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. Prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, natural or social origin, property, birth or other status.
- c. Revise the 2015 Gender Equality Act to clearly cover sexual orientation, and push for the adoption of the gender recognition Bill, in order to protect transgender people's rights, including their right to change their legal title without undergoing reassignment surgery.
- d. Facilitate recognition of the preferred gender of transgender persons and establish arrangements to permit relevant identity documents to be reissued reflecting gender and name, without infringement of other human rights.

10.2. Regarding the absence of legislation recognizing same sex marriages

- a. Embody the principles of equality and non-discrimination on the basis of sexual orientation and gender identity in its national constitution or other appropriate legislation.
- b. Amend the Civil and Commercial Code, Book 4, Article 1448 to recognize same-sex marriages, so that same-sex couples would be guaranteed equal rights, duties, and protections under the law.

10.3. Regarding the discrimination faced by LGBTIQ+ individuals in employment, the education system, and military conscription

- a. Enact a comprehensive anti-discriminatory legislation that includes discrimination on the grounds of sexual orientation and gender identity among prohibited grounds and recognize intersecting forms of discrimination.
- b. Amend laws that overlook discrimination in all stages of employment, such as the 2008 Civil Service Act, which in Section 36.4 it is prohibited for a person for being a civil servant if "being morally defective to the extent of being socially objectionable", which leads to a discriminatory reading against LGBTIQ+ people.



c. Ensure equal treatment with a view to eliminating discrimination in all aspects of employment and occupation for all workers, by enacting an anti-discrimination law and monitoring body specifically designed to tackle employment discrimination, and to penalise perpetrators of such violations.

10.4. Regarding the discrimination and harassment faced by LGBTIQ+ individuals in the private spheres

a. Ensure that individuals can exercise their rights to freedom of expression in safety, without discrimination on grounds of sexual orientation and gender identity.

10.5. Regarding intimidation, transphobic attacks and judicial harassment of LGBTIQ+ persons because of their human rights work and activism

a. According to section 84 (e) of the Report of the United Nations High Commissioner for Human Rights on Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, the Royal Thai Government should enact a comprehensive anti-discriminatory legislation that includes discrimination on the grounds of sexual orientation and gender identity among prohibited grounds and recognize intersecting forms of discrimination. In this regard, the Thai Cabinet should collaborate with civil society organizations to enact gender-sensitive laws, applicable to all sectors and segments of society. Thailand should therefore immediately repeal the 2015 Gender Equality Act's provision allowing for sexual and gender-based discrimination on grounds of welfare and safety protection, as well as for religious or security reasons and ensure that, in all relevant policies, SOGIE are included as a basis for non-discrimination.

b. According to Article 26 of the International Covenant on Civil and Political Rights, Thailand must guarantee that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Royal Thai Government shall therefore revise Section 27 of the 2017 Constitution of Thailand to unequivocally mention and recognize SOGIE as a basis for discrimination, and to investigate and punish discriminatory criminal incidents against LGBTIS+ individuals both online and offline as hate crimes.

c. Ensure that human rights defenders, including LGBTIQ+ rights defenders and activists, journalists, civil society members, lawyers and academics are able to carry out their legitimate activities to bring to light human rights violations without fear or undue hindrance, obstruction or legal and administrative harassment in line with Thailand's obligations under the ICCPR and with respect to the UN Declaration on Human Rights Defenders.

d. To address harassment and gender-based hate crimes against LGBTIQ+ individuals, and ensure that people experiencing such incidents have access to remedy in accordance with Thailand's international human rights obligations under Articles 2(1), 2(3) and 14 of the ICCPR.

10.6. Regarding the barriers faced by LGBTIQ+ persons in accessing healthcare services



a. Ensure full protection against discrimination and intensify measures to ensure that lesbian, gay, bisexual, transgender, intersex people do not suffer from discrimination and violence. This is particularly important as LGBTIQ+ people still experience stigma and discriminatory practices when accessing health services in Thailand, ranging from insensitive jokes, irrelevant questions being asked, and in some cases, lack of confidentiality around the patient's SOGIE, medical services and treatments being denied.

b. Take all necessary legislative, administrative and other measures to ensure enjoyment of the right to the highest attainable standard of health, without discrimination, on the basis of sexual orientation or gender identity.

c. Ensure that healthcare facilities, goods and services are designed to improve the health status of, and respond to the needs of, all persons without discrimination on the basis of, and taking into account, sexual orientation and gender identity.

10.7. Regarding the misinterpretation of LGBTIQ+ persons in the media, and insufficient representation in politics

a. Take appropriate measures to secure adequate advancement of persons of diverse sexual orientations and gender identities as may be necessary to ensure such groups or individuals equal enjoyment or exercise of human rights.

b. Raise awareness of LGBTIQ+ and SOGIE rights, sensitise journalists to LGBTIQ+ issues and develop a handbook of good practices for reporting on these.

c. Ensure that LGBTIQ+ persons are fairly represented in all sectors of society, including in the media and in politics.

10.8. Regarding the impacts of COVID-19 on the lives of LGBTIQ+ individuals

a. Ensure that LGBTIQ+ persons have access to health care and medicine, especially by addressing social stigma and discrimination in public hospitals., as recommended in the Report on the impact of the COVID-19 pandemic on the human rights of LGBT persons of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

b. Take into consideration the specific needs of LGBTIQ+ and include them in COVID-19 responses; Ensure that they have access to benefits without discrimination.



Endnotes

- ¹ Parliament of Thailand, The Gender Equality Act B.E.2558 (2015), available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/100442/120478/F764760666/THA100442%20Eng.pdf>
 - ² Thailand's Gender Equality Act Five Years On?', Thai Inquirer, 29 December 2020, available at: <https://www.thaienquirer.com/22048/thailands-gender-equality-act-five-years-on/>
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