

THE UNIVERSAL PERIODIC REVIEW OF THE KINGDOM OF THAILAND: ISSUES RELATED TO SEXUAL ORIENTATION AND GENDER IDENTITY

March 14, 2011

FOUNDATION FOR HUMAN RIGHTS ON SEXUAL ORIENTATION AND GENDER IDENTITY,
TEERANAT KANJANAUKSORN FOUNDATION,
ANJAREE LESBIAN GROUP,
RAINBOW SKY ASSOCIATION OF THAILAND,
THAI TRANSGENDER ALLIANCE,
SWING (BANGKOK),
M-PLUS (CHIANG MAI)

METHODOLOGY

The organizations submitting this information are the most representative civil society organizations in Thailand concerned with issues of sexual orientation and gender identity. The information is based on our ongoing work in the country.

LEGAL FRAMEWORK

Section 30 of the *Constitution of Thailand* states that all persons are equal before the law. It also prohibits discrimination based on “phet”, usually translated in English as “sex.” The Constitution Drafting Assembly in 2007 stated that the Thai word had a broader meaning, and included “the differences between individuals in sexual identity or gender or sexual diversity...” The Administrative Court of Thailand, in two decisions in 2010, has ruled that Section 30 prohibits discrimination against transgendered individuals.

The laws and policies of the government of Thailand do not expressly discriminate on the basis of sexual orientation or gender identity. They discriminate by omission.

DEVELOPMENTS FROM 2006 TO 2011

1. In 2009 a ‘pride’ parade organized by LGBT communities was blocked in Chiang Mai by ‘Red Shirt’ protesters, who physically confined lesbian, gay and transgender activists for a few hours, under the threat of violence. Police were present, but did not free the activists or allow the peaceful parade to proceed. Pride parades had earlier been held in four cities in Thailand, including Chiang Mai, often with some police support. Chiangmai’s local government expressed opposition to the parade, even before the actions by the Red Shirt protesters and continues its discrimination against sexual minorities by repeatedly issuing rules to bar transgenders from government-sponsored festivities. No acknowledgment of this clear violation of human rights has ever occurred, on the part of the police. And yet the Chiang Mai local government participated in a pride parade held on February 20th, 2011.

2. Following lobbying by various NGO's, a draft legislation recognizing the changed “sex” of transsexuals on personal documents emerged from a legislative committee in 2007. However neither the Council of State nor the government supported this draft legislation.

3. There is no recognition of same-sex relationships in Thai law, resulting in discrimination against homosexual couples on issues such as inheritance, immigration, hospital visitation, child custody, social security benefits, and government health and pension schemes.
4. Efforts to end Thai military policies stating transgender individuals as suffering from "mental problems" in their discharge documents remain unresolved after four years of litigation and negotiation. As all male-born citizens are required to present military discharge documents with their job applications, they have difficulties getting employment, due to the "mental illness" being stated as the reason for their discharge.
5. LGBT presence in television and films is often subject to arbitrary banning and censorship. One television channel has a regulation to prohibit "sexually deviant behaviors" aimed at LGBTs.
6. There have been little or no efforts to include sex education in schools, which could help to counter discriminatory social attitudes on issues of sexual orientation and gender identity.
7. The fact that Thai society does not recognize the existence of LGBT people means that there is a lack of knowledge and understanding of their specific health conditions and needs leading to inadequate provision of physical and mental health care services by government and private health sectors alike.
8. In its activity at the United Nations, Thailand has consistently (a) not supported the granting of "consultative status" to non-governmental organizations concerned with sexual orientation and gender identity issues, and (b) refused to support statements or resolutions in the Commission/Council and the General Assembly opposing criminal sanctions, extrajudicial killings and other forms of violence directed against LGBTs.

RECOMMENDATIONS

The Thai State should:

1. Enact a general anti-discrimination law, to implement the requirements of the *ICCPR* and the *Constitution*, followed by concrete programs of enforcement and public education on diversity issues, aimed at reaching full recognition of the equal rights of lesbians, gay men, bisexuals and transgendered individuals in education, employment and participation in public, economic, social, cultural and all other areas of life.
2. Enact a law and implement necessary policies for the full recognition of the changed "sex" for transsexuals for all purposes.
3. Enact a law to recognize same-sex relationships on equal basis with opposite-sex relationships.

4. Run a public campaign to raise awareness of the needs and rights of LGBT individuals. Take every effort possible to ensure that the stigma attached to transgender people as suffering from psychological illness is removed. Efforts must also be made to ensure that the transgender people are entitled to internationally accepted medical treatment aimed at supporting their sense of gender identity.
5. Advise all media outlet that arbitrary banning and censorship based on sexual orientation and gender identity is unconstitutional.
6. Introduce scientifically based sex education in schools to counter negative social attitudes. Programs are also necessary to identify bullying by students in the schools on a number of grounds, including differences in sexual orientation, gender identity or gender expression.
7. Provide funds for the study of health care needs of and improve health care services for LGBT communities.
8. Proactively support equality rights for lesbians, gay men, bisexuals and transgendered individuals (a) in its domestic laws and policies, (b) in its work within the Association of South East Asian Nations and (c) at the United Nations.

END//

Names and contact details:

Ms. Anjana Suvarnananda anjana42@gmail.com

Mr. Paisarn Likhitpreechakul asiantrekker@yahoo.com

Foundation for Human Rights on Sexual Orientation and Gender Identity

Address:

4 Petchkasem Road 24, Paseecharoen District Bangkok 10160

Tel. +66-86 994 9525 and +66-81 6343450

Fax +66 - 2- 868 4344