

# THAILAND: Discrimination and Violence against Women and LGBTI Persons

Shadow Report

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To the Committee on the Elimination of Discrimination  
Against Women (CEDAW) for consideration at the 67th  
session, 2017.

Submitted by

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# United Nations Committee on the Elimination of All Forms of Discrimination against Women

67<sup>th</sup> session, 3-21 July 2017 THAILAND  
Joint Submission to the UN Committee on the Elimination of Discrimination against Women (CEDAW) On

## Discrimination and Violence against Women and LGBTI Persons

By Togetherness For Equality (TEA)  
and The Working Group for Gender Equality, Rights and Freedom in Thailand

### Summary of Situation: Constitutional and legislative framework

- 1) Despite the enactment of Gender Equality Act in 2015 and the Royal Thai Government's commitment to the 2030 Agenda to leave no one behind, the situation faced by lesbians, bisexual women, transgender and Intersex persons (LBTI) in Thailand is characterized by invisibility and silencing, unreported cases of violence and abuse, family and societal pressure to conform to gender norms and roles and lack of legal protections in all aspects of life. LBTI populations are underrepresented in the few existing LGBT studies and are rarely mentioned in women studies in government, civil organizations and private sectors. The invisibility attributes to the wide misperception that LBTI persons in Thailand are more accepted and protected. This worsens the discrimination and violence against LBTI persons.
- 2) During the CEDAW circle review, no recommendation was formulated to the Thai Government on sexual orientation, gender identity, gender expression and sex characteristics issues. Nevertheless, the advocacy and collaboration between the State, international organizations, and civil society on LGBTI rights have gained progress in the protection of their rights and equality. Some of these accomplishments are exemplified by the progress in transgender military drafting procedures, regulations allowing physically apparent intersex individuals to change gender titles, and rights to wear uniforms based on chosen genders in some universities. Not to mention, the progressive collaboration between the education system, the United Nations, and civil society in producing a report based on discrimination in the workplace and bullying LGBTI youth among other issues.

- 3) However, after 2014 coup d'état and the prolonged military government, the situation faced by women and LBT persons have become worsened. Fundamentalism is practiced and encouraged in various forms across the nation. Coup d'état not only took away democracy in Thailand but also put gender equality in vulnerable stage<sup>1</sup>. The Constitution of Thailand 2016 denies various areas of basic human rights protection<sup>2</sup>. Civil society organizations are not engaged in, nor informed about the making of new legislations, including Gender Equality Act 2015, Teenage Pregnancy Act 2016 and Protection of Children Born Under Assisted Reproductive Technology Act 2015. State is substantially violating CEDAW Article 5a, among other articles. As such, Thailand's situation of undemocratic government and authoritarian legislative procedures warrants special concerns from the CEDAW Committee.

## Substantive Violations of the Convention

### *A. Rape against Lesbians and Transgender Persons (Articles 1, 2 [f], 5 [a])*

- 4) Lesbians, 'tom' (gender nonconforming women and transgender persons who might not identify with women nor transmen) in Thailand face homophobic rape and open threats of rape, gang rape and rape and murder. Abusers include family members and strangers. The situations are reported to be worse in rural areas where gender stereotypes are holding strong. LBT persons are forced to get married against their will or leave their hometown to escape the situation.<sup>3 4 5 6 7</sup>

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<sup>1</sup> A simple example is that the National Legislative Assembly, which were military appointed, composed of more than 93% of men (only 8 women out of 250 members).

<sup>2</sup> The followings highlight civil society's concerns for the Constitution of Thailand B.E. 2559 (2016) (1) It omits Thailand's obligations to international conventions that Thailand has ratified. This was written under Article 4 in the Constitution of Thailand B.E. 2540 (1997) and 2550 and the Constitution of Thailand (Temporary Issue) B.E. 2557. (2) There is no clarity in on rights violating legislative procedures in Article 25, 26. (3) National Health Security Plan and civil society's participation are cut off. (4) While the Constitution (1997) puts forth rights and freedom of people and community, they are mentioned only in Chapter 5 "State's Duties" in the current Draft. (5) There was no real civil society involvement as people who express dissent were arrested.

<sup>3</sup> Three toms were assaulted and raped by a group of military officials in the Deep Southern Provinces of Thailand. One tom was murdered while the other two toms were made to find their way back out of the forest area naked. They were too terrified of the soldiers to report the incident and tried to only stay home ever since—reported by LGBTI activist in the Public Forum on Fix Butch - Repair Femme: Rhetoric Derogatory and Violence #StopViolating LBT, organized by Sexuality Studies Association and LBT civil society organization network on 28 June 2016 at Thammasart University.

- 5) Transwomen sex workers in Pattaya are targets of police abuse, exploitation and extortion. They are often accused of public nuisance and vagrancy, despite nonexistence of such laws in Thailand<sup>8</sup>. The news on these arrests are presented in a derogatory manners in mass media and local media, reproducing the prejudice and violence against transgender persons, sex workers and women who live with HIV. This creates self-stigmatization and results transgender persons' reduced chance in career choice and wellbeing.<sup>9</sup>
- 6) There are many websites, Facebook groups and fan pages dedicated to hate speech and attack against LBT, explicitly encouraging rape, gang rape and physical attacks.<sup>10</sup> This has detrimental effects on LBT's mental and physical health, forcing them to conceal themselves and live with fear.<sup>11</sup> There is no legal protection or remedy mechanisms for the cyber crime against LBT persons in this manner. Nor is there public recognition that LBT rape and threats of rape is a crime. LBT persons rarely report their rape cases for lack of trust that they would receive support and understanding.

### *Recommendations*

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<sup>4</sup> In a Northeastern province, a man hired thugs in the village to rape his own lesbian daughter as an attempt to 'cure' her— reported by LGBTI activist in the Public Forum on Fix Butch - Repair Femme: Rhetoric Derogatory and Violence, same source as above. In Muslim communities, lesbian and toms are forced into marriage — reported by LGBTI activist in the Public Forum on Fix Butch - Repair Femme: Rhetoric Derogatory and Violence

<sup>5</sup> Information available at [<http://www.khaosodenglish.com/news/crimecourtscalamity/2017/01/13/kidnap-murder-lesbian-love-triangle-hate-crime/>, <http://www.nationmultimedia.com/news/national/30303944> and <https://www.thaivisa.com/forum/topic/963170-missing-tom-discovered-buried-in-deserted-kanchanaburi-resort/> ]

<sup>6</sup> Matichon Online, "Violence against women still severe: father rapes 'tom child' to turn into woman" (12 March 2012), accessed 30 October 2016, available at [[http://www.matichon.co.th/news\\_detail.php?newsid=1331619744&catid=00](http://www.matichon.co.th/news_detail.php?newsid=1331619744&catid=00)]

<sup>7</sup> Matichon Online, "There is no woman in rape of tom! when you correct tom and repair di: not funny, stop" (14 July 2016), accessed 30 October 2016, available at [<http://www.matichon.co.th/news/211880>]

<sup>8</sup> David Sim, International Business Times, "Thailand: Pattaya Police Arrest Transsexual Prostitutes in Crackdown on Sex Tourism". 22 September 2014. Accessed on 30 October 2016. Information available at [<http://www.ibtimes.co.uk/thailand-pattaya-police-arrest-transsexual-prostitutes-crackdown-sex-tourism-1466601>] Information available at [<http://www.pattayamail.com/news/pattaya-police-accused-profiling-violating-rights-transgenders-174943>] and [<http://pattayapeople.com/2017/05/05/promoting-peace/>]

<sup>9</sup> Impacts of media to transgender persons in Pattaya are reported by Health and Opportunity Network (HON)

<sup>10</sup> Atittaya Asa, presented in the Public Forum on Fix Butch - Repair Femme: Rhetoric Derogatory and Violence #StopViolating LBT, organized by Sexuality Studies Association and LBT civil society organization network on 28 June 2016 at Thammasart University, Sexuality Studies, 2016. Some contents are reported at [<http://abc.norporchoreu.com/?p=4822>]

<sup>11</sup> Love Pattaya's community counsellor, content noted in LBT Network Meeting on 14-15 July 2016.

- 7) a. Ministry of Education urgently revises existing textbooks and curricula that promotes patriarchal attitudes. LGBTI-inclusive concepts of violence and rape should be trained as a part of all government workplace and school policy.
- 8) b. The Committee on Unjust Discrimination Analysis under the Gender Equality Act works with justice systems in Thailand so that cyber bullying on the basis of gender is recognized as hate crime and develop measures for penalties as well as remedies.
- 9) c. The Bureau of National Statistics, Ministry of Health (through hospitals and healthcare centers) and the Royal Thai Police need to develop statistic system with data segregation for cases of sexual violence and rapes done to lesbians, bisexual women and trans persons.

### ***B. Violence Against Women and LBT Human Rights Defenders***

- 10) After the 2014 coup, women and LBT human rights defenders have faced higher risk and intimidations from doing their legitimate work, especially those critical of the military government. Many women human right defenders have encountered hate speech and sexual harassment by officials, pro-government groups, and religious citizens. Moreover, some of them are also given frequent house visits by military officers, which affects mentally not only them but also their family members.
- 11) A prominent student activist experienced some comments from police and military officers about the size of her breasts and her appearance. She also received many online threatening messages to rape and kill her from ultra-royalists during the mourning period for the late King Rama IX.<sup>12</sup> In addition, military officials usually have visited her family's home more than 50 times, causing not only her paranoia but also her mother's frail health.<sup>13</sup>
- 12) Soldiers from the house visits harassed a pro-democracy female activist too. The officials were befriending her family to obtain her information and monitor her behavior, instructed to intimidate her. A similar situation of Other male activist's imprisonment for sharing a BBC's profile of the new king also happened to her. She was threatened to be arrested if she did not remove the article from her Facebook page and would be charged with lese majeste and violating the Computer Crime Act.<sup>14</sup>

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<sup>12</sup> The noted in Women and LBT Friends meeting on 17 January 2017

<sup>13</sup> Pravit Rojanaphruk, "Women Recount Lives Disrupted 3 Years by Junta Harassment," *Khaosod*, last modified June 8, 2017, <http://www.khaosodenglish.com/politics/2017/06/08/women-recount-lives-disrupted-junta-harassment-3-years-running>.

<sup>14</sup> Ibid.

- 13) Lesbian activists, LGBT rights defenders who work in the Deep South of Thailand, were harassed and threatened about their security using social media by Islamic academics, peace negotiators and religious leaders after a documentary about their activities for LGBT rights was aired on a Thai television channel namely ThaiPBS on 8 February 2016.<sup>15</sup>
- 14) For LBT human rights defenders, Thailand does not recognize the genders of transgender people and send them to prisons according to their biological sex. This poses threats to the transgender persons, particularly for transgender women who are placed in male prisons. A transgender student activist was arrested in September 2015 for her participation in the demonstrations for civil rights and freedom of expression, was sent to male prison where she had to endure continuous verbal abuses and sexual harassment from male officers and inmates. She was forced to strip in front of other males.<sup>16</sup>
- 15) Another transgender student activist in civil movement, faced heavy threats from public through social media and newspapers, including gang rape threats and murder threats<sup>17</sup>

### **Recommendations:**

- 16) a. Establish national strategic plan to ensure state agencies' protocols for rights protection of women and LBT human rights defenders and raise awareness on prejudices and stigmatization against women and LBT human rights defenders on the basis of their gender and sexuality.
- 17) b. Through people-centered process, issue Gender Identity Recognition Law that allows individuals to register their gender rather than their biological sex on official documents.

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<sup>15</sup> Buku Books & More Pattani Bookstore which hosts an activity called Buku Classroom to promote safe space for exchanging knowledge of gender and sexuality, and organizes a football club named Buku FC.

<sup>16</sup> Bee (Pseud) first joined a student's demonstration by using three-finger symbol. (Hungry Game movie's three-finger symbol has been used as a symbol against military coup in Thailand. Military government has arrested activists and people who show the symbol in public.) She was arrested and taken to Patumwan Police Station and later to the Royal Thai Army. Later she participated in "One Year Anniversary of Coup" activity on 22 May 2015 in front of a cinema in Bangkok. She was summoned to report to the military government. The incident led to her second arrest on 24 June 2015. The bail was denied. Attorney and activists made several attempts requesting the authority to place her in female prison according to her gender. The requests were denied. She was later released after spending some time in the male prison.

<sup>17</sup> On July 1, 2014, a right-wing newspaper, ASTV Manager, published a "mock column" which threatened Bow (Pseud) with sexual violence, because she had criticized Thailand's lèse majesté law. The column described in vivid detail a fictitious scenario in which Bow, 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). Available at [<http://m.manager.co.th/Pjkkuan/detail/9570000073608>] Accessed 30 October 2016.

- 18)c. Ensure that gender is the common concept used in legislations.
- 19)d. Ensure that all governmental agencies have inclusive gender policies.
- 20)e. Advocate government officials for development or consideration on regulation about hate speech and sexism speech towards women and LBT human rights defenders.
- 21)f. Support women and LBT human rights defenders for security training and other capacities that are important for their work, such as an opportunity to access some grant for training or to attend important conferences.
- 22)g. Develop mechanism to protect women and LBT human rights defenders from threats and charges by government officers.

### *C) Article 112 or Lese Majesté*

- 23) Lese majeste makes it a crime of insulting the king, the queen, the heir-apparent, or the regent who are considered as a national security. In Thailand, it is used not only to protect the royal family, but also to attack innocent citizens to discourage human rights defenders especially in this junta regime. Anna (Pseud), the mother of an anti-coup activist named Mee (Pseud), was pressed charge for violating article 112 and computer crime act on 6 May 2016. The Thai authorities arrested her after discovering that she replied a Facebook message from Burin Intin, who is now in prison for lese majeste, by writing 'Ja' which in Thai it was translated as a colloquial of saying 'yes,' according to Human Rights Watch. She also claimed she might know Burin briefly from participating in activities but never contacted him via any ways of communication like telephone, Line application, or Facebook Messenger. The case became controversial because saying 'yes' could be interpreted in many meanings depending on the context and her son is a well-known activist who protests against the junta government.<sup>18</sup>

### *Recommendations:*

- 24) Reviewed Article 112 to bring it into line with universal laws and reiterated that the imprisonment of persons for exercising their freedom of expression violates this provision.
- 25) Demanded the authorities release those who have been deprived of their liberty for exercising their right to freedom of expression.

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<sup>18</sup> Anna (Pseud) had to deposit 500,000 cash as bailbond and until this moment (June 2017), the investigation is currently ongoing. In addition to her son's further information. Mee (Pseud) is a student activist who fights for democracy against the junta government. He faces struggles from the government many times, including intervention, interruption, legal charges, or even kidnapping.

## Discrimination in Economic, Social and Cultural Rights

### A) Right to Family (Articles 1, 2 [f], 5 [a], 11 [2] [a], 16):

26) Families and children of LBT persons face no legal protection under Thai laws on marriage, law on child adoption and law to grant access to reproductive technology. There have been reported death of LBT partners as the law prohibits them to act as spouses of their injured partners, resulting in delayed or no medical treatments, particularly in emergency<sup>19</sup>. The children of an LBT person are not recognized by the law, posing concerns over child parental rights and causing difficulties in LBT parents' child cares.<sup>20</sup>

27) The fact that LBT families are not recognized by the Civil and Commercial Code<sup>21</sup> warrants public negative opinions of LBT families and the misperception that they do not have children or are incapable of being parents<sup>22</sup>. This poses hindrances to include LBT families in parental care legislation like Protection of Children Born Under Assisted Reproductive Technology Act B.E. 2558 (Surrogacy Law) and Child Adoption Act B.E. 2522.

### *Recommendations:*

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<sup>19</sup> In September 2012, there was a case of a lesbian couple, who had been in a relationship 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 consent forms for treatment. 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. Story is accessible at <http://thaipublica.org/2015/03/anjareefoundation/>

<sup>20</sup> Lesbian couple has lived together since 2010. In 2011, they adopted her niece as their own daughter. The family has been together for 6 years but the law does not protect their parental rights. If Matcha died, the other mother of the child will not be able to keep the child because they are not blood related. The case is reported at <http://prachatai.org/journal/2016/10/68527>

<sup>21</sup> Civil and Commercial Code B.E. 2535 Article 1448 states that "Marriage can be done when the man and the woman are 17 years old..."

<sup>22</sup> Cases reported by the same sources above and Buku Gender, Sexuality and Human Rights Classroom and Sangsan Anakot Yawachon. Cases can be viewed through the following URLs: <https://www.youtube.com/watch?v=zFxRjEG9SzM>, <http://prachatai.com/journal/2015/10/62136>, <http://prachatai.org/journal/2016/10/68527>, <https://program.thaipbs.or.th/watch/Nkqf3p>, <http://www.bangkokpost.com/archive/the-parent-trap/760084>



- 28) a. Review Article 1448 of Civil and Commercial Code B.E. 2535 to allow marriage between persons regardless of their gender. Consistently use the genderless term 'person' and 'spouse' in place of 'man and women' and 'husband and wife', respectively. This will allow equal rights, benefits and protection for all couples.
- 29) b. Review Protection of Children Born Under Assisted Reproductive Technology Act B.E. 2558 and allow LGBTI couples to legally access the technology.
- 30)c. Review all subordinate legislations to be consistent with recommendations 1. and 2.
- 31)d. Review policies on benefits and welfares allocated to state and private sectors to ensure equality of all couples regardless of their genders.
- 32)e. Review policies, rules and protocols in government agencies so that they are suitable for all types of families
- 33)f. Raise awareness on different types of family in government agencies, products and media.

## B) Discrimination in Employment

- 34) Lesbians, bisexual women, transgender and Intersex persons face extensive discrimination in various aspects at all stages of employment, starting from education and training, to access to employment, career opportunity and advancement, as well as in access to employment and social security benefits. Some LBT persons have their job applications rejected immediately by both government and private bodies due to their purportedly improper gender identity. Lesbians are often questioned about their sexual orientation, while transgender employees are required to dress according to their birth-assigned sex. LGBTI persons are sexually abused, humiliated, and ignored by their colleagues and rarely receive support in career advancement, promotion or equal payment. Employment discrimination combined with LGBTI.

### **Recommendations:**

- 35)a) 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.

- 36) b) 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.
- 37) c) 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.
- 38) d) 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.
- 39) e) The state must ensure that LGBTIs have equal access to promotions and opportunities in career advancement.

## C) Right to Education

- 40) Discrimination against gender non-conforming children and youth appears in all circle of education in all forms, including school admission, school and university rules, examinations and grading, university graduation ceremony and both state-published and private-published text books in all education levels. As a consequence, gender non-conforming children and youth become isolated, depressed, develop health conditions and are forced to leave schools. Some reported having suicidal thoughts because of their school treatment. Six in ten LGBT youth were bullied due to their sexual orientation, gender identity and expression, also those perceived to be LGBTI<sup>23</sup>. Trans students are reported not going to public toilets in schools for fear of being bullied in the toilets as they usually are. When they reported sexual harassment to their teachers, the teachers instead advised them to stop being a trans and pointed out that the incident was their fault. Teachers sometimes make sarcastic comments, treat gender non-conforming students in a hostile manner and show constant disapproval. Sometimes teachers put penalty on the students' gender expressions. Some schools put announcements on school bulletin condemning trans girls and tomboys.

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<sup>23</sup> UNESCO, 2015, From Insult to Inclusion: Asia-pacific Report on School Bullying, Violence and Discrimination on the Basis of Sexual Orientation and Gender Identity. Available at <http://unesdoc.unesco.org/images/0023/002354/235414e.pdf>

- 41) Tawanchai Wittaya School's New Student Admission Rules for Matthayom 1 and 4 (equivalent to grade 7 and 10) Academic Year 2017 states under the qualifications of the new students that they must be "real men and real women (no deviant sexual behaviors)".<sup>24</sup>
- 42) Other than reinforcing inequality practices of binary genders, Thai textbooks also portray negative presentations of LBT persons. Many teaches students to stay away from them saying that they are sexual deviants.<sup>25</sup>
- 43) Male or female school uniforms are strictly forced upon young LBTs, particularly on examination and graduation days. Those who fail to comply are denied their right to take the examination and receive discipline penalty.<sup>26 27</sup>

### **Recommendations:**

- 44) a) Eliminate gender-based dress codes or ensure that transgender students can choose which uniforms to use.
- 45) b) 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.
- 46) c) 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.

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<sup>24</sup> New Student Admission Rules, Tawanchai Wittaya School. Accessible online at [http://www.tavanchaividhaya.ac.th/image/mypic\\_customize/files/ระเบียบการรับสมัครนักเรียน2560.pdf](http://www.tavanchaividhaya.ac.th/image/mypic_customize/files/ระเบียบการรับสมัครนักเรียน2560.pdf)

<sup>25</sup> Sexual Diversity in Thai Textbooks: an Analysis of Lower High School's Health Education Textbooks, Wijit Wongwaritip, August 2016. Foundation for SOGI Rights and Justice (FOR-SOGI)

<sup>26</sup> In January 2016, Woranittha Chiawchan, a transman student from Faculty of Law, Chiang Nai University, was denied his rights to enter his graduation ceremony in a male uniform. The letter from Graduation Ceremony Committee stated that his request contradicted the long-practiced traditions of dress code in graduation ceremony which was designed to honor the presidency of the ceremony and for effective security and that the denial of his request was not a violation of rights.—Memorandum 6392(1)/00343 issued by the Secretariat of the Royal Graduation Certificate Ceremony, Chiang Nai University on 18 January 2016

<sup>27</sup> Transgender student was denied the issue of documentation, including certificate of academic achievement and transcript, because she requested to use a photo of her wearing female uniform. The university claimed that the issue of documentation requires photos that are in congruence with the person's sex assigned at birth.

- 47) d) 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.
- 48) e) Revise current educational curricula in each subject and remove biased terminology and explanations related to sexual/ gender diversity.
- 49) f) Provide channels of assistance to bullied students, e.g. hotlines, web boards, or mobile applications.
- 50)g)Promote acceptance of sexual/gender diversity within society at large through public campaigns, popular media, or activities of civil society organizations.
- 51) h) Create collaboration networks between schools and civil society organizations working on sexual/gender diversity and gender-based violence.

## D) Right to Safe Abortion Information and Services

- 52)Currently, Criminal Code B.E. 2500 (1957) criminalizes women who have abortion except that the decision is made by doctors, taking away women's body autonomy and life decision. Medicine are distributed under strict conditions to very few certified facilities, mainly in Bangkok, resulting in inaccessibility particularly for marginalized women and LBT .
- 53)Due to social stigmas and lack of inclusive education provided by the state, LBT populations still have misinformation on protection and safe abortion and largely have difficulties accessing to services. One in twenty five (4.2%) individuals who seek abortion service are LBT.<sup>28</sup> Stigmatization on LBT further put pressure on LBT to keep the unwanted pregnancy even when they are raped<sup>29</sup>. This results in suicide, depression and death from unsafe abortion<sup>30</sup>.

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<sup>28</sup> Tamtang's statistics from March to August 2016.

<sup>29</sup> Video clip "Change 'tom' into 'ter' (pronoun for women)" was published in June 2016 and received very high popularity on social media while revealing much hate speech against toms. The intention of the producer was to warn tom to be mindful of the frequently occurring hate rape and unwanted pregnancy that follows. The content of the video suggests to tom that they should not have abortion and that people do not understand them. Accessible at <https://www.youtube.com/watch?v=IRPcTZJTh4g>

<sup>30</sup> Cases reported by LGBTI activists

### *Recommendations:*

- 54) a) State has to take responsibility in widely circulating and publicizing information on existing legal and safe abortion services in Thailand. Currently, there are safe and legal abortion services but women do not have access to them because the information is kept away from public.
- 55) b) Abortion medicine and information of how to safely use them have to be made accessible by women.

### E) Rights in Prison

- 56) It is a duty of a State Party like Thailand to ensure that human rights of women, in any field, are protected throughout laws, policies and national legal framework practices. Yet for women in Thai prisons, the state plays an important role in violating female prisoners' human rights. These women face poor living conditions, deficient health program, violence in the prisons, sexual discrimination and denial to information and legal aid.
- 57) In the prisons, female inmates are detained in such a poor living condition that lacks good maintenance and is prone to accidents. One prisoner was severely injured from a ceiling fan that fell onto her whilst spinning. Also beddings and laundry area are not enough for the number of inmates, leading to a common circumstance of contagious skin diseases to spread. The nutrition in prison food do, too, not suffice for daily needs. Muslim female prisoners are also not treated fairly with their dignity. They are not allowed to wear hijabs, while foreign Muslim prisoners can, and are not given halal food option and utensils.
- 58) Health program for female inmates is flawed. They do not receive sexual wellbeing. Sanitary napkins are provided but not enough for every prisoner. Transgendered inmates cannot get their hormones. The quota for cervical cancer testing is limited. Pregnant prisoners are obliged to bear and bring up babies in prisons where the atmosphere is not suitable for good well-being of the mothers and the infants. They are not granted abortion rights and information of personal hygiene management. Also, there are difficulties to see doctors who do not well follow general rules while conducting a physical exam and simply give small inquiries and prescribe painkillers. There is no mental treatment, causing new and current inmates who are vulnerable to face mental ill disorder and are unable to receive a proper medical treatment.
- 59) There is also violence in the prisons. Female prisoners' rights are violated when they are forced for cavity search for drugs without any necessities. This happens especially to human rights defenders. Not to mention with a male human rights defender who is currently detained for sharing the new king's biography on Facebook.

- 60) Women are, too, discriminated in employment in prisons. They are paid with a very low wage like \$1 - \$2.50 for three-month work. Compared to men's prisons, types of jobs in women's prisons are limited and the employment does not consider capabilities of the inmates. Schooling in their prisons is also different from which in men's where male inmates can do more studies. This results in men have more opportunity to continue their educational degrees than women.
- 61) Female prisoners are not given information of what rights they have. Besides, they are treated similarly regardless of their statuses either as suspects or offenders. Additionally, as the prison's database is obsolete, political prisoners in particular receive their prison cards rather late, affecting their release date. Furthermore, they can never view their own records and get the official release date.<sup>31</sup>

### **Recommendations:**

- 62) a. Provide educational opportunities in women's prisons to be equal to men's prisons, such as granting undergraduate scholarships
- 63) b. Consider fair wage for inmates and protect their rights according to the Labour Protection Act
- 64) c. Improve the prisons to internationally standard and provide enough areas for inmates to conduct activities
- 65) d. Facilitate the inmate to see doctors when they wish and doctors should carry out a physical exam according to hospital's standard in general
- 66) e. Have measurements for prison's food to meet sufficient nutrients
- 67) f. Have definite policies to take care of Muslim female inmates which accord with their religious practice
- 68) g. Improve prison's database to be up-to-date
- 69) h. Have mechanism to make healthcare and medical services for inmates in keeping with the concept of human rights and should have visions and a good understand about the gender concept

## **F. Discrimination in Law and Policy**

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<sup>31</sup> Report by a former political prisoner who was jailed for lese majeste over play and presently a creator of Fairly Tell group, content noted in Women and LBT Friends meeting on 17 January 2017

## Gender Equality Act B.E. 2558 (2015)

- 70) Gender Equality Act 2015 was enforced on September 9th, 2016 prohibiting government and non-government sectors to announce or conduct discriminatory practices. The Act protects men, women and "people who express themselves differently from their biological sex". This is considered a progress for LGBTI protection in Thailand.
- 71) However, there are serious limitations to the realization of the Act's just enforcement. Gender discrimination cases will be processed through state-appointed Committee on Unjust Discrimination Analysis, most of whom are not trained on gender issues nor human rights. Also, Article 17(2) puts reservations on protection against discrimination on the purposes of the individual's safety, religious practices or national security, in which cases the action will not be considered discrimination cases. This creates concerns that the Act will be able to protect women and LBT human rights defenders and does not comply with international standard of protect against all forms of discrimination.

## Recognition of Gender Identity (Articles 1, 2, 3, 15)

- 72) In some sector, transgender women are recognized in law, such as in the exemption from military drafting<sup>32</sup>. However, they are forced to get a medical certification that proves that they have a mental disorder.<sup>33</sup>
- 73) Lack of gender recognition law results in psychopathologization<sup>34</sup>, which rid transgender persons' rights to define themselves and allows discrimination against transgender persons in the judicial system, customs and re-entry into the country, access to health, education, and employment for example. This causes much difficulty in having a normal life for those whose gender identities differ from their identified ones. As an example, a person traveling overseas and into the country is questioned by customs officials because their passport details do not match their gender identity.

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<sup>32</sup> Ministerial Regulation, issue 74 (1997) under the Military Enlistment Act B.E497 (1954) added "gender does not match sex at birth" as a criteria of people who are exempted from military service (to provide exemption from Military Enlistment Act B.E 2497 (1954) which states that all males are required to serve in the military including trans women).

<sup>33</sup> Yogyakarta Principles, Principle 3: No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilization or hormonal therapy, as a requirement for legal recognition of their gender identity

<sup>34</sup> Psychopathologization is the practice of defining transgender people's gender identity as a mental illness.

**Recommendations:**

- 74) a. Adopt a law on gender identity that allows gender recognition.
- 75) b. Ensure appropriate training is provided to officials, including prison officers, in sexual orientation, gender identity and expression and sex characteristics.
- 76) c. Provide an educational program on schools that promote the respect for sexual orientation, gender identity and expression and sex characteristics.
- 77) e. Ensure that the national policies on education, health, labor and justice have a gender and sex characteristics-sensitivity approach.