

A Matter of Gender Diversity: Towards a Civil Union Law in Thailand

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A Matter of Gender Diversity ?

- Decriminalisation of Same Sex (Consensual) Relations
- Effective Anti-Discrimination/Anti-Violence Measures
- Recognition of Gender Identity
- Depathologisation of Sexual Orientation and Gender Identity (SOGI)
- Socio-cultural and Economic-Political Inclusion
- Education with Empathy

Draft Civil Union Law: Thailand 2019

- Basically a contract between two parties to love and care for each other

- Not a marriage law and is not related with religious ceremonies

Components

- Section 2 : Age: 17 or over
- Section 3: same sex union
- Part 1: Registration of Civil Union
- Section 8: between Two Thai nationals or at least One Thai

- Section 10: Possible to register outside Thailand...Thai Consulate
- Section 11: Consensual
- Part 2: Relationship between Partners
- Section 16: Care for each other

- Section 19: Apply the provisions of the Civil Code on rights and duties of spouses/husband-wife to civil unions accordingly
- (e.g. send each other to hospital)
- (but does not cover adoption as a couple)

- Part 3: Property
- Section 21: Divide between personal property (before civil union) and property of civil union (generated after the union)
- Each share in the latter

- Part 4: Nullification of Civil Union
- Section 23: for example, where mentally ill.
- Civil union is void

- Part 5: Termination of Civil Union
- Section 31: where permitted by a court
- Section 32: 1) where age under 17
- 4) where coercion: the union is voidable

- Section 36(1) where serious infectious disease endangering the other partner
- Part 6: Inheritance
- Section 40: Apply the Civil Code and each can inherit

Accompanying Draft Law: To Amend the Civil and Commercial Code

- Amend Section 1452 of Code: “no bigamy” rule applies to partners
- Amend Section 1516(1): adultery can be ground for terminating the civil union

Key Issues

- Age: is 17 too low ?
- Applies only to same sex relations (unlike French law on Civil Union; English law was originally re same sex but now covers heterosexuals too)
- Application of Civil Code via the Civil Union Law ? One partner can give permission for the other to be operated upon (like spousal relationship). This needs to be tested.

- No access to tax deduction as a couple
- No access to State welfare as a couple
- No provision on adoption as a couple
- No citizenship eligibility as a couple
- Step by step approach and this may need further reforms. E.g. of the Tax Code to allow deductions as a couple

Should we jump to a Same Sex Marriage law rather than A Civil Union Law ?

- One sector of society: step by step approach, starting with civil union law
- Another sector wants an immediate same sex marriage law and sees the civil union law as an obstacle to same sex marriage law
- Key link with provisions on marriage law in the Thai Code which use terms “man and woman”: e.g. section 1448 REFORM ?

- **Section 1448. Minimum Age of Marriage**
- A marriage can take place only when the man and woman have completed their seventeenth year of age. But the Court may, in case of having appropriate reason, allow them to marry before attaining such age.

- **(Section 1458.** A marriage can take place only if the man and woman agree to take each other as husband and wife, and such agreement must be declared publicly before the Registrar in order to have it recorded by the Registrar.)

Positive Developments

- Recent public hearing to improve text
- Political Parties are in favour of same sex relations: non-partisan agenda
- Several MPs are transgender
- Wait to see what happens when text of the draft law goes to parliament: whether they opt for civil union OR change the Civil Code to open the door to same sex marriage OR both

- Now new initiative to have Recognition of Gender Identity Law
- Already Gender Equality Act which covers gender expression and which can be used against discrimination (especially of transgender people)

- WE LOOK FORWARD CONSTRUCTIVELY TO THE FUTURE.....
- TO RECOGNISE LOVE AND FRIENDSHIP...WITHOUT BARRIERS.

THANK YOU!