

Briefing Note:

Ensuring Marriage Equality in Thailand

Currently, Thailand’s laws do not provide LGBTI+ couples with the right to marry. This contravenes Article 23 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a state party, and the legally binding principle of non-discrimination.¹ In March 2022, the Move Forward Party introduced to the parliament the marriage equality bill to address this issue.² The marriage equality bill, or the Act for Amendment to the Civil and Commercial Code as it is formally known, if enacted, would replace the terms “husband” and “wife” with the term “spouse” in Section 1448 of Thailand’s Civil and Commercial Code.³ This, in effect, would provide LGBTI+ couples equal access to the right to marriage, welfare, child adoption, healthcare consent, property co-management, inheritance, and access to spousal benefits of tax deductions and government pensions.⁴

Although the bill passed its first reading in the House of Representatives on June 15, 2022, it failed to progress to the second reading and lapsed when parliament dissolved on March 20, 2023.⁵

Recommendations to Ensure Marriage Equality in Thailand

- Reintroduce to parliament the marriage equality bill in line with Section 147 of the Thailand Constitution.
- Approve without delay a bill in all its readings that will guarantee the right to marriage equality in Thailand.
- Accept and process without delay petitions in accordance with Section 5 of the Initiative Process Act B.E. 2564 for the parliament to consider bills that will facilitate marriage equality in Thailand.

An Analysis of Legislative Opportunities to Ensure Marriage Equality in Thailand

Despite the previous parliament’s failure to enact the marriage equality bill, the new parliament may still consider the now-lapsed bill.

Section 147 of the Thailand Constitution prescribes that, “in the case where the term of the House of Representatives expires or the House of Representatives is dissolved, the draft Constitution Amendments or bills which have not yet been approved by the National Assembly . . . shall lapse.”⁶ However, the second paragraph of the same provision provides that any house of parliament may consider a lapsed bill if the Cabinet makes a request for the parliament to further consider the bill.⁷ Under the constitution, the Cabinet must make “such requests within sixty days as from the date of convocation of the first sitting of the National Assembly after the general election.”⁸ Following such a request, the House of Representatives may consider the bill as a second reading if the majority of the full parliament vote to allow it.⁹

As an alternative option, a bill may also be introduced to parliament for consideration through Section 5 of the Initiative Process Act B.E. 2564, which requires “ten thousand eligible voters subscribing their names to a petition for introducing a bill.”¹⁰ As of April 2023, the Rainbow Coalition for Marriage Equality has collected more than 350,000 signatures to reintroduce the marriage equality bill into parliament.¹¹

For a bill to become law, it must pass three readings in the House of Representatives as well as three readings in the Senate before it is submitted to the Prime Minister, who will request royal assent from the King. The bill will then be published in the Royal Gazette and become law after a period of 60 days.¹²

The Human Rights Framework

Article 23 of ICCPR and Article 16 of the Universal Declaration of Human Rights (UDHR) guarantee the right to family and marriage. Thailand is a state party to the ICCPR, and all U.N. member states are obligated to uphold the UDHR. Article 23 of ICCPR provides that “[t]he right of men and women of marriageable age to marry and to found a family shall be recognized.” In accordance with these laws, states must “take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.”¹³

Article 26 of the ICCPR and Article 2 of UDHR also guarantee equal protection of the law without any discrimination.¹⁴ The principle of non-discrimination is further considered a fundamental right under customary international law and is binding on all states. Section 27 of the Thailand Constitution similarly prohibits all forms of discrimination.¹⁵

Background

LGBTI+ people in Thailand are denied the right to marriage and continue to face discrimination under Thai law.¹⁶ Despite being one of only two Asian U.N. member states to vote in favor of a Human Rights Council resolution on human rights, sexual orientation, and gender identity in 2011, Thailand still lacks adequate domestic mechanisms to safeguard LGBTI+ rights.¹⁷

When youth-led protests calling for political reforms erupted nationwide in Thailand in 2020, the agenda for reforms included calls for LGBTI+ rights alongside broader calls for democratic change.¹⁸ The LGBTI+ community and the human rights movement in Thailand’s primary demand for marriage equality in Thailand led to the development of the marriage equality bill and the introduction of the bill into parliament two years later.¹⁹

On June 15, 2022, the marriage equality bill passed its first reading in the House of Representatives by a vote of 210 to 180.²⁰ The House of Representatives then

established a parliamentary vetting committee to review the bill section-by-section and make any necessary revisions.²¹

In September 2022, three months after the vote, the parliamentary vetting committee completed its review process and reintroduced the bill to the House of Representatives for a second reading on November 3, 2022.²² Despite urgings by the National Human Rights Committee and civil society, the bill failed to progress and eventually lapsed after a series of delays in the legislative process followed by the closure of parliament at the end of the regular session on March 1, 2023.²³

Endnotes

- 1 International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), U.N. Doc. A/6316, ratified by Thailand, arts. 23 and 26; Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810, UDHR, arts. 2 and 16; Constitution of the Kingdom of Thailand, April 6, 2017, <https://ratchakitcha.soc.go.th/pdfdownload/?id=2103519>. The principle of non-discrimination, as defined by the U.N. Human Rights Committee, includes:
[A]ny distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.
Human Rights Committee, *General Comment No. 18: Non-Discrimination*, U.N. Doc. HRI/GEN/1/Rev.9, November 10, 1989, para. 7.
- 2 The draft Act for Amendment to the Civil and Commercial Code B.E. ..., March 31, 2022, https://pis.parliament.go.th/PARFileDownloadProxy/download?s=6v0tDXvweb1cW_HS-QN1zFCZ_G53XN-EGKjs2ToGqFQa1WU EeIS96o5OY2PJwpyh2RCSzNCmtoSHpykHZ2nj_YwD7W4Nhvu9aUyI5MgqtG9 vTnQJF2XlnlFPEu-9iwvd0zo1znK_o5WbVZ-clQdlsHir7zju6BLIQ=&ref=1556279&n=1
- 3 Thailand Civil and Commercial Code, <https://www.krisdika.go.th/librarian/get?sysid=567410&ext=htm>.
- 4 The draft Act for Amendment to the Civil and Commercial Code B.E. ..., November 3, 2022.
- 5 Royal Decree Dissolving House of Representatives B.E. 2566, Section 1-5, <http://www.prd.go.th/th/file/get/file/20230320bb0bda7d28025a916751958a6733d89c152010.pdf>; National news Bureau of Thailand, “The Election Commission Has Announced the Date for the Election of Members of The House of Representatives on May 14,” March 21, 2023, <https://thainews.prd.go.th/th/news/detail/TCATG230321193107440>.
- 6 Constitution of the Kingdom of Thailand, April 6, 2017, Section 147, <https://ratchakitcha.soc.go.th/pdfdownload/?id=2103519>.

- 7 *Ibid.*
- 8 *Ibid.*
- 9 *Ibid.*
- 10 Initiative Process Act B.E. 2564, May 25, 2021, Section 5, https://web.parliament.go.th/assets/portals/5/files/T_0007.pdf
- 11 The Rainbow Coalition for Marriage Equality, "Marriage Equality," Accessed April 4, 2023, <https://www.support1448.org/>
- 12 The draft Act for Amendment to the Civil and Commercial Code B.E., November 3, 2022.
- 13 ICCPR, art. 23; UDHR, art. 16.
- 14 ICCPR, art. 26; UDHR, art. 2.
- 15 Constitution of the Kingdom of Thailand, April 6, 2017.
- 16 Thailand Civil and Commercial Code.
- 17 U.N. Human Rights Council, *Human Rights Council Resolution - Human Rights Sexual Orientation and Gender Identity*, adopted June 17, 2011, U.N. Doc. A/HRC/RES/17/19, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/148/76/PDF/G1114876.pdf?OpenElement>.
- 18 WorkpointTODAY, "LGBTI+ Protest 'Not Cute But Queer' Supports Youth Liberation Group Demanding for Marriage Equality," July 26, 2020, <https://workpointtoday.com/lgbt-flash-mob/>; The Standard, "'Not Cute But Queer' Protest: LGBTIQ+ Stance on The Political Stage," July 26, 2020, <https://thestandard.co/lgbtq-stance-on-politics/>; Prachatai, "'Not Cute But Queer' Protest: Thai Archives EP.329," August 30, 2020, <https://prachatai.com/journal/2020/08/89295>; The Matter, "'Not Cute But Queer' Another Milestone of Pro-Democracy Movement in Thailand," July 30, 2020, <https://thematter.co/thinkers/lgbtq-protest-in-thailand/118920>.
- 19 The draft Act for Amendment to the Civil and Commercial Code B.E., March 31, 2022.
- 20 The National Assembly Radio and Television Broadcasting Station, "LIVE: 6th Meeting of the House of Representatives (First Annual Ordinary Session)" June 15, 2022, June 15, 2022, https://www.youtube.com/watch?v=XCtXUm_jorc.
- 21 Secretariat of the House of Representatives, "Records of the 25th Assembly of the House of Representatives, the 4th Year 6th Time (Ordinary Period) First Annual Meeting) Wednesday, June 15, 2022," June 15, 2022, https://msbis.parliament.go.th/ewtadmin/ewt/parliament_report/main_warehouse_dll.php.
- 22 Fortify Rights, "Thailand: Pass Marriage Equality Bill, Protect LGBTI+ Rights," September 16, 2022, <https://www.fortifyrights.org/tha-inv-2022-09-16/>.
- 23 Royal Thai Government, "The Cabinet Has Approved the Draft Royal Decree to Close the Parliament During the Second Annual Ordinary Session from March 1, 2023," February 7, 2023, <https://www.thaigov.go.th/news/contents/details/64649>.