

# Forms and Procedures Driven Bill of Same-Sex Marriage in Thailand\*

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In this paper, the study of forms and procedures for driving the bill of the same-sex marriage in Thailand was presented. This study was conducted to investigate the law activities on the welfare benefits from marriage registration of lesbian, gay, bisexual, and transgender (LGBT) people. This study was a qualitative research focusing on the possibility of adopting such a concept in Thai society. The key informants in this study were 25 people who played the important roles in the public, such as politicians, academics, human rights activists, physicians, and LGBT people. The data were analyzed and compared to reveal the findings that these activities were to promote legal change by peaceful means in a national level and that there was a high possibility to enforce this law in Thailand which custom, religious, and traditional contexts would significantly affect this law.

*Keywords:* driving bill, LGBT people, homosexual, marriage

There are many proofs of sexual relationships of same-sex partners that show it is natural. This not only appears in human society but many animals choose a same-sex partner and live together lovingly. For human beings in ancient times, it was common for relationships of men with men or women and women. In the Roman era, relationships of same-sex couples were openly accepted as natural. And it added to that some loving same-sex relationships were viewed as more noble than heterosexual love (Udomsin, 1985, p. 98). Later in the Christian era, sexual diversity flourished in Europe, although it became a taboo subject and tradition as it followed the teachings of the *Bible*. In modern times, within some religions, such as Catholics, the Pope declared that same-sex love morally wrong. Even in Asia, many countries do not give social recognition to the love of same-sex couples due to many religious concepts, beliefs, traditions, and cultures. These relationships have been stigmatized from the social norm and only accept male and female couples, but in reality no matter what era, there is evidence of social, religious, and cultural homosexual love stories. Apparently, there is evidence that love is not a matter of individual sex, but it is only about two people who love each other. It is important that the world society gives priority to the benefits from the marriage of same-sex couples.

So, with regards to the law, governments need to find legal measures to endorse and protect the freedom and equality of people in same-sex relationships. In order for people to have the right and freedom to choose a

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same-sex relationship, there should be no legal barrier, for example, giving same-sex couples the opportunity to marry and live together under the same rights as heterosexual couples. This will ensure they are united and proud in the public's view of their relationship. There is a family law (registration of civil partnerships) as well as other laws, such as the relationship of marriage in general. However, the law on same-sex marriage in many countries is one of the important anti-discrimination measures towards homosexuals and same-sex couples who want to live together.

However, in social groups, there is a belief that the values of life partnerships are that they should be able to live in a normal way.

The accepted norm is a relationship between females and males and this is an obstacle to the driving of any other form of relationship.

### **Research Objectives**

- (1) To study the forms and procedures driven bill of same-sex marriage in Thailand;
- (2) To study the views of the law.

### **Concepts and Theories Involved**

#### **Social Deviations**

Social deviation is a concept that is considered by some to be unacceptable to the norm (Prasat, 1992, p. 14). The "deviation" from the norm means "behavior that is not consistent with tradition" or the expectations that people in society have if the behavior is deviated to the social tradition. This is a serious misconduct. Traditionally, the law will be punished (Chonthicha, 1989, p. 9) as the nature of deviations is a characteristic of customs and social systems. The traditional view is only men and women in a sexual relationship. The deviation that occurs to same-sex relationships is a social phenomenon that is viewed in terms of a violation of "normal" social roles. The claim of the right to register a same-sex spouse indicates that society does not understand the true needs of people contradict social convention. This needs to be challenged. It is highly important to study the social claims processes of individuals with alternate tastes to marriages with same-sex couples. This should be legal in our time.

#### **Concept of Marginalized**

The concept of marginalization shows that if Thai society wants to see the struggle of the marginalized and show the power of humanity and creative power, society must help to eliminate the various barriers. The latent in the structure of society is a way to think in a variety of ways especially the idea about what is considered "normal" in society. The economic structure is distorting (Prapas, 1996) and because of these conditions, they all develop unintended negative consequences which can cause misunderstanding. The concept of marginalization can be explained to enhance understanding of the situation of social discrimination and the inability of the legal profession to understand sexual diversity. There is no formal certification with regard for the legal profession to grasp the concept. Although it may be the law of Thailand to recognize this marginalization, the concept of marginalization also shows the social view on the model and the driving process. This can explain and support the study of the model and the driving process. The *Bill of Lading* can answer the objectives of this study of the value of human sexuality as well as the attitudes and perspectives of Thai society towards homosexual persons and their right to be seen as equal under the law.

### **Human Rights Concept and the Constitution of the Kingdom of Thailand**

Human rights' concepts are as important as all of the world's civilizations. Human beings have historically tried to put their systems of thought to the world's awareness. This is the basic human right of freedom of speech, and freedom of thought and religion. Considering the value of humanity, acceptance of human dignity, national origin, and rights based on the right to life, human rights are also important in terms of human security. The causes and significance of what is mentioned above need to focus on the study of human rights. It is important in both the social and democratic world as well as in Thai society.

The human rights concept is an important concept. It is a source of law enforcement around the world and must influence the drafting of the constitution of the Kingdom of Thailand. To maximize the public benefits to the people in the country the essence of the *Thai Constitution*, Section 30, is clear. And therefore legally, the exclusion of the same-sex reference from equal rights is considered a violation of the human rights of these individuals. They are entitled to be treated the same way as heterosexual women and men alike.

Within the *Constitution of Thailand*, men and women have equal rights and the power to choose a spouse is a given for either gender. It is clear for same-sex couples to deserve no difference to a spouse of a man or woman in law. Even the Constitution will have the human rights concept, but it does not provide legal rights for all individuals with regard to relationships. Marriage is legal but not for everyone. This legal phenomenon is a violation of the human rights concept, and within the *Thai Constitution*, the law does not allow marriage of same sexes. This contradicts the provisions of the Constitution and it needs to be corrected by the Constitution and the human rights concept.

### **Social Movements Concept**

Social movement is a continuous and sustained interaction between authority in social institutions and those who challenge it. Unlike interested groups and political parties, social movement is the story of mobilizing the masses (Tilly, 1985, as cited in Prapas, 1996).

Pasuk Pongpajit (2002) defined the social movement as a collective action or making a change in society in a creative way. Initially, participants may or may not have a social purpose. But when the movement is stronger, it expands and becomes sustainable. This may lead to a change of values, institutions, and the power of relationships between the various social groups. And it can effect change between the state and the people. It is a movement to resist or to support change for the benefit of society as a whole, rather than for a personal interest. And how important the movement is, is to focus on how peaceful it is. Violent public activities are not useful for a democratic mechanism. Linked to study forms and procedures driven bill of same-sex marriage in Thailand can make it known the purpose of the drafting of the *Act on the Registration of Spouses* is in terms of a social necessity, for readiness, and the role of the public sector.

### **Study Method**

In-depth interview 25 key informants that consist of individuals who approve of same-sex relationships and individuals or groups that are contributing to the drive. The 25 registered partnerships are selected from the target groups and divided into four groups. The features in each group are:

- (1) The leader pushes the law on the registration of two spouses and leader legal support;
- (2) Parliamentary Authority and the adoption of the law. The Act requires the registration of a couple to enter into force;

- (3) Teachers and doctors who provide feedback;
- (4) The same-sex group to use the law (10 partnerships are required).

### Data Analysis

All data were interpreted using holistic analysis and content analysis in comparison with concepts, theories, and relevant research, and social content was utilised. In additional description, statistics were used to further analysis the data.

### Result

#### The Context of Individuals With Same-Sex Love

A study of the factors of same-sex couples revealed the number of sexual partners is unknown but shows significant interest in same-sex relationships within Thailand. According to data from the National Bureau of Statistics, the Thai population survey in 2012, only 12,683,172 males were sexually attracted to men, representing 39.2% of all males. And in females, 10,256,121 people accounted for 30.5% of all females. The total population is 65,981,659, which is considered to be large. However, such groups cannot access the benefits of marriage registration because Thai law only allows people who are heterosexual. Sexual partners who enjoy a same-sex relationship live in all areas throughout Thailand and range from teenagers, adults, and the elderly.

According to the study, the data from heterosexual groups in Thai society found that in 2014, the rights group for sexual diversity expanded. Apparently, an expression of personal sexual identity accepts their identify sex as more personal. Although a very popular view until the definition of gender was mentioned. Based on survey data by a researcher, it collected up to 18 different sexual orientations.

Table 1  
*The 18 Sexual Identities*

Name in Thailand	Sexual orientation
Men	Men like women
Women	Women like men
Tom, tomboy	Female with male identity
Die	Females like tomboy
Tom gay king	Tom can be both ladies and Tom
Tom gay queen	Tom like Tom is abusive
Tom gay two way	Tom likes Tom and is both offensive and defensive
Gay king	Male like male and as offensive
Gay queen	Male like male is abusive
Boat	Male like gay king, gay queen is both offensive and defensive
Bright	Women like Tom, lesbians and men
Lesbian	Women like women
Ladyboy, katoye	Men who want to change are female and like men
Adam	Males like tomboy
Angels	Ladyboy like tomboy
Cherry	Women like gay and ladyboy
Sam Yan	Male or female like every gender

From Table 1, it shows the gender characteristics. Classified by personal sexual orientation in Thailand, 18 names appear to be present in today’s society. This represents their identity and they accept their identity and sexual orientation.

### **A Study of the Forms and Procedures Driven Bill of Same-Sex Marriage in Thailand Based on Interview Data**

The patterns and procedures appear to be activities that promote change at the legal level of the country and are based on legal principles and rationales. No violence and respect for the rule of law. In a formal manner, there is also a study of foreign motives that have been active and can be enforced. It is clear that in the context of each country, the issue of marriage is related to customary issues. Religion and culture are also very influential. Same-sex marriage law can only be used in countries where there is openness to freedom, civil, and human rights.

For Thailand, marriage is based on the law and tradition of rituals in all areas, properly done by male and female couples, which are only of a different sex. With marriage of the same sex, there is no legal acceptance and seen as a new theme for Thai traditional rituals. But same-sex couples in Thai society are clearly visible as many live life as a spouse. And no less from this phenomenon, the campaign began to promote the law on spousal registration and to promote activities organized by the Association of Sexual Assault. To promote creative activities in the mass media, social networking, and social gatherings, seminars also on the laws for sexual diversity will be held along with the drafting of the Act. This is a significant legal change.

**Legal form.** The same-sex movement is motivated to achieve the same rights as heterosexual spouses, including:

- (1) The right to joint property management.
- (2) Right to medical treatment and welfare.
- (3) The right in the death of a spouse, the legal surviving spouse shall have the right to manage the funeral, such as the funeral of a physician, receiving funeral allowance and being able to request to issue a death certificate, etc., even though they are an unmarried couple but in a defacto relationship. As a “friend” living apart, there is no such right.
- (4) The right in a criminal case to prosecute in the case of the defamation of the deceased. If one spouse dies, the surviving spouse is taken to reproach and the surviving spouse is the victim of the prosecution. According to the *Criminal Code*, Section 327, a spouse is not registered, despite damage to their reputation.
- (5) The legal right to protection from domestic violence. The Act on the protection of victims of domestic violence means a spouse of a same-sex family living in the same household. Will these unmarried cohabitants be protected under this law?

**In addition to legal rights.** It has the legislation to register couples of same-sex couples. One important point to bear in mind is that the law is breaking down the old law and will change the culture of a designed society. All people who are living together need help sharing and care. If there is no legal status same-sex couples who conduct business the same as, a heterosexual partner, the same law exists. It hinders any access to rights and impedes the expression of love of many couples together.

**Partner law.** It is the progress of Thai society that is trying to push legal concepts for the rights of same-sex couples to have equal rights with everyone in society. Although this law still has to be driven into many different stages, the process will be faced with prejudices of Thai society for a long time.

**Legal steps.** The results of the study show that there are currently widely discussed issues of a legal matter. The matter of a same-sex marriage can be legal, as with a male and female, how will it affect the public? Especially in Thai society, it has implanted the concept of a household must be composed of both sexes. For all,

it is very necessary to study and use good judgment and reasoning to achieve a solution. Within the philosophies and developments of the world in general, and the rules and regulations of law, it is important in the case of any legal problems and it must be a way of life for people in society. The concept of driving the bill on the drafting of the *Marriage Act*, the study is based on a methodology that is model driven by a process and the concept of driving development. The study was conducted on the legitimacy of the registration of spouses legislation which is one of the law groups. It is a law that is of secondary importance to the constitution. A law issued by the legislature. The King was advised by the recommendations and consent of the Parliament. There are steps and methods:

(1) Proposal for a bill ... The bill proposed by the members of the House of Representatives.

(2) Consideration of the bill ... The drafting of a bill by Parliament, which must be approved by the House of Representatives. Then, the Senate considers the bill. The bill is divided into three sessions:

Agenda 1—Rule of law: The House of Representatives will consider only the principle of the bill which is appropriate and necessary without considering any other details. They then decide whether to accept the principle or not. If not, the principle goes away. If accepted, the Commission will set up a detailed review. Every member of the House of Representatives has the right to propose amendments or send amendments to the president of the Commission.

Agenda 2: The House of Representatives will consider the relevant sections within the amendment and to vote on that section as amended by the members of the House of Representatives. Or it stays the same.

Agenda 3: Approval by The House of Representatives if they agree or disagree? If they do not agree to it, The House of Representatives can change it. If approved, the Senate will be next to considering the bill.

(3) Consideration of the Senate will consider approving the proposed bill.

(4) The bill enacted ... The bill approved by Parliament with the Prime Minister to sign his name within 20 days in response to the Royal Decree. The King has signed his Majesty's name.

(5) Enforcement laws that have already been developed and promulgated apply.

Legislation involves three elements: (a) the enforcement date; (b) the territory in which the law applies; and (c) the people to whom the law applies.

(6) Date of enforcement ... The conclusions are as follows: (a) effective from the date of publication of the Gazette; (b) effective from the day following the date of publication in the Government Gazette; and (c) applicable in the future.

(7) Law enforcement ... By the general rule of law of any state, it will apply to all persons in that state or country. Thai law applies to everyone in the Kingdom of Thailand. The Thai people or any national of any nationality, but with some exceptions under certain laws do not apply to some people.

(8) Announcement of the King's Act ... When to publish in the Government Gazette. However, in the year 2014, it has not yet been promulgated and has not been finally resolved because the Thai government has experienced a formal delay in the adoption of a marriage law relating to same-sex couples.

### **Study of the Views of the Law Enforcement**

In this study, the views and opinions of individuals who provide important information are as follows:

(1) The perception of the need for having same-sex marriage law. The study found that same-sex marriages were required to be enacted because many same-sex couples were experiencing problems that were not covered by the law. There is a great need to take advantage of such laws.

(2) Attitude towards the readiness of adopting same-sex marriage law. According to studies, it has been found that Thailand has used case studies from countries where the law has been enacted, not less than 18 countries in the world, most of which are developed countries. And Thailand will be the first in Southeast Asia if the law comes into force. The law is carefully considered and covered by the leading legal experts in the country. The public hearing was held to hear public opinion in all regions and the response was in a positive direction to show this law should be enacted to ensure all spouses access to legal rights and longer be discriminated against.

(3) Attitudes towards the adoption of same-sex marriage law by the public. According to studies, it has been found that public hearings on comments on the draft *Act on Registration of Spouses* are more supportive than clear objections. Both civil society and the media also support this Act. The benefits are greater than the effect that not only same-sex couples are acceptable; spouses also provide access to benefits.

(4) Attitude towards the seriousness of the government in adopting same-sex marriage law. The results showed that the government does not have any objections to the law and acts as the recipient of the law. The public sector working with associations and related organizations conduct various activities with the media to promote the law. The government is responsible for implementing the procedures set out in the Constitution.

(5) Views on the impact of the draft *Family and Thai Family Life Registration*. The study also found that this is a new issue that Thai society has adopted the concept of marriage law for the benefit of same-sex spouses. This is for a life partner or a life partner that has long been in Thai society. Only the law does not provide certification. The fact that couples can register to access the benefits is not a familiar concept to Thai society.

### Conclusions

Drive model *Bill of Lading Act* in Thailand, it is accepted as a social norm. The results of the study are as follows:

(1) It will be a grouping of associations, organizations, and the support of international organizations. All are non-profit agencies. It has a major role in driving support activities for same-sex spouses to receive legal protection. The study found that it was based on the principle of peace. Focus on the atmosphere without violence. Academic characteristics are accessible to all groups such as students and the general public. The main leaders are the gendered groups of doctors, academics, lawyers, human rights activists and businessmen who are sponsors to carry out large scale activities. It has a vision and a common goal.

(2) The format according to the law. According to studies, it has been found that the format is in accordance with the content of the law. It is similar to the benefits of a married couple but suggests there will be problems with adoption without government consent.

In terms of scope, the target group in the study is those who are involved in the work force that pushes the law on the registration of spouses, each person in that work force group. Also, organizations that are important in the conduct of formal and informal law-making can provide important information on the issues of education, models, and procedures. The *Bill of Lading Act* in Thailand found that each person was aware of the effects of not being protected by law and its consequences. Most of all, it is the first time that sex is publicized and takes a long time for traditional families to adjust their attitudes for acceptance. Most of the bill's potential is the ability to be good for society and can behave as a good example that has high reliability which can be a very important step in driving the bill through the networks of many organizations that cooperate regularly.

### Suggestions

From the study of forms and procedures driven bill of same-sex marriage in Thailand, the authors propose:

(1) The study can help to understand civil society in Thailand and should promote the understanding of the normality of sexual diversity. This bill should not be regarded as unusual because it could cause problems to follow.

(2) Three-way education is a way for those who are interested and to promote learning and knowledge management. These will be role models in relevant studies, such as the importance of peaceful coexistence, the reduction of social inequality, campaigns and activities. This will be beneficial for studies that focus on addressing inequalities in human rights and sustainable population freedoms.

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