

THAI CIVIL PARTNERSHIP IS THE NEW MARRIAGE
INEQUALITY:
QUEER CRITIQUES ON THE DISCOURSES IN THE CIVIL
PARTNERSHIP BILL OF STATE ACTIVISM TOWARDS
MARRIAGE 'EQUALITY'

Miss Thanita Wongprasert



จุฬาลงกรณ์มหาวิทยาลัย
CHULALONGKORN UNIVERSITY

A Thesis Submitted in Partial Fulfillment of the Requirements
for the Degree of Master of Arts in International Development Studies
Common Course
Faculty of Political Science
Chulalongkorn University
Academic Year 2018
Copyright of Chulalongkorn University

ร่างพระราชบัญญัติการจดทะเบียนคู่ชีวิตสำหรับบุคคลที่มีความหลากหลายทางเพศคือความไม่เท่าเทียมในรูปแบบใหม่: บทวิพากษ์วาทกรรมจากทฤษฎีเคียวี่ร์ที่ปรากฏในร่าง ผ่านการเคลื่อนไหว
สิทธิความเสมอภาคทางการสมรสของภาครัฐ



วิทยานิพนธ์นี้เป็นส่วนหนึ่งของการศึกษาตามหลักสูตรปริญญาศิลปศาสตรมหาบัณฑิต
สาขาวิชาการพัฒนาระหว่างประเทศ ไม่สังกัดภาควิชา/เทียบเท่า
คณะรัฐศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย
ปีการศึกษา 2561
ลิขสิทธิ์ของจุฬาลงกรณ์มหาวิทยาลัย

ฐานิตา วงศ์ประเสริฐ : ร่างพระราชบัญญัติการจดทะเบียนคู่ชีวิตสำหรับบุคคลที่มีความหลากหลายทางเพศคือความไม่เท่าเทียมในรูปแบบใหม่: บทวิพากษ์วาทกรรมจากทฤษฎีควีเรียที่ปรากฏในร่าง ผ่านการเคลื่อนไหวสิทธิความเสมอภาคทางการสมรสของภาครัฐ . (THAI CIVIL PARTNERSHIP IS THE NEW MARRIAGE INEQUALITY: QUEER CRITIQUES ON THE DISCOURSES IN THE CIVIL PARTNERSHIP BILL OF STATE ACTIVISM TOWARDS MARRIAGE ‘EQUALITY’) อ.ที่ปรึกษาหลัก : รศ. ดร. สรวิต ชัยนาม, อ.ที่ปรึกษาร่วม : ดร.นฤพนธ์ คิ้ววิเศษ

ในปัจจุบันการเข้าถึงการจดทะเบียนสมรสอย่างเท่าเทียมถือเป็นหนึ่งในพันธกิจของการพัฒนาระหว่างประเทศ กรมคุ้มครองสิทธิและเสรีภาพในประเทศไทยได้เสนอร่างพระราชบัญญัติการจดทะเบียนคู่ชีวิตในปีพ.ศ. ๒๕๖๑ โดยมีใจความสำคัญว่าด้วยความเสมอภาคทางการสมรส แม้ว่าการริเริ่มร่างพระราชบัญญัติฉบับนี้จะเป็นความหวังและการพัฒนาเกี่ยวกับสิทธิสำหรับบุคคลและชุมชนหลากหลายทางเพศ แต่อย่างไรก็ดี ร่างพระราชบัญญัติดังกล่าวก็ยังมีข้อบกพร่องในหลายจุด อันนำมาซึ่งการถูกวิพากษ์วิจารณ์อย่างกว้างขวาง วิทยานิพนธ์ฉบับนี้จัดทำขึ้นโดยมีวัตถุประสงค์เพื่อวิเคราะห์อิทธิพลของวาทกรรมการแต่งงานที่มีต่อการร่างพระราชบัญญัติการจดทะเบียนคู่ชีวิต โดยนำมุมมองจากทฤษฎีควีเรีย มาใช้ในการวิเคราะห์ร่วม และนำแนวทางการวิพากษ์วาทกรรมของมิเชล ฟูโกต์ มาประยุกต์ใช้ร่วมกับการวิเคราะห์ข้อมูลและบริบทที่เกี่ยวข้อง เพื่อหาข้อสรุปว่าพระราชบัญญัติการจดทะเบียนคู่ชีวิตคือความไม่เท่าเทียมกันแบบแฝงทางการสมรสในรูปแบบใหม่ วิทยานิพนธ์ฉบับนี้มุ่งนำเสนอผลที่ได้จากการสืบค้นงานวิจัยต่างๆ ทั้งจากแหล่งข้อมูลปฐมภูมิและทุติยภูมิ ดังนี้ การวิเคราะห์เนื้อหาของร่างพระราชบัญญัติ การสัมภาษณ์บุคคลที่มีบทบาทในการเคลื่อนไหวในเรื่องนี้ การเข้าร่วมกิจกรรมที่เกี่ยวข้อง และประสบการณ์ตรงจากการเป็นนักเคลื่อนไหวสิทธิของผู้เขียน โดยจะนำงานเขียนและงานวิจัยของนักวิชาการท่านอื่นมาใช้ในการอ้างอิงเพิ่มเติมร่วมด้วย วาทกรรมการแต่งงานในประเทศไทยมักให้ความสำคัญกับด้านสังคมและวัฒนธรรมเป็นส่วนใหญ่ ยกตัวอย่าง บรรทัดฐานการแต่งงานตามขนบธรรมเนียมประเพณีที่สืบทอดต่อกันมาอันมีอิทธิพลต่อการจดทะเบียนสมรสซึ่งมีผลทางด้านกฎหมายเป็นต้น โดยจะเห็นได้จากกรณีศึกษาเรื่อง การยื่นเสนอร่างพระราชบัญญัติการจดทะเบียนคู่ชีวิตที่มีวัตถุประสงค์เพื่อทำให้การแต่งงานตามกฎหมายมีความเสมอภาคเท่าเทียมกัน โดยไม่ระบุหรือถือกันว่าด้วยเรื่องเพศ อย่างไรก็ตาม บทวิเคราะห์ชี้ให้เห็นว่าพระราชบัญญัติดังกล่าวไม่สามารถบรรลุวัตถุประสงค์ที่กำหนดไว้ได้เนื่องจากอุปสรรคต่างๆ จากทั้งภายในและภายนอกที่ภาครัฐและภาคประชาสังคมได้เผชิญ วิทยานิพนธ์ฉบับนี้เล็งเห็นว่า การแต่งงานเป็นหนึ่งในเครื่องมือที่รัฐใช้ในการควบคุมพฤติกรรมและการตัดสินใจของประชาชน โดยเฉพาะกลุ่มบุคคลที่มีความหลากหลายทางเพศผ่านการสร้างสังคมในอุดมคติตามบรรทัดฐานที่รัฐกำหนดแม้ว่าร่างพระราชบัญญัติจะผ่านการอนุมัติและมีผลบังคับใช้อย่างเป็นทางการแต่การเลือกปฏิบัติก็ยังคงมีให้เห็นอยู่ ภาพสะท้อนของวาทกรรมการแต่งงานแบบไทยที่มีความไม่เท่าเทียมกันเป็นทุนเดิมยังคงมีให้เห็นในร่าง ซึ่งองค์ประกอบของข้อกฎหมายดังกล่าวถูกสร้างให้เป็นมาตรฐานหลักในกฎหมายฉบับใหม่ ซึ่งแยกออกมาจากฉบับเดิม จุดบกพร่องอยู่ที่ความไม่เข้ากันอันเนื่องมาจากการนำหลักการเก่าที่ไม่สอดคล้องต้องกันกับใจความสำคัญของกฎหมายใหม่ ทำให้เกิดเป็นปัญหาในด้านการนำมาปฏิบัติใช้ที่ สุด กล่าวคือ ภาครัฐมีอำนาจในการสั่งการและตัดสินใจแต่ในขณะเดียวกันรัฐก็มิได้ทำหน้าที่เกี่ยวข้องกับเรื่องสิทธิโดยตรง ซึ่งถือเป็นเงื่อนไขหลักที่อยากจะเปลี่ยนแปลงแก้ไข เปรียบเสมือนกับวัฏจักรที่น่าขมขื่น

สาขาวิชา การพัฒนาระหว่างประเทศ
ปีการศึกษา 2561

ลายมือชื่อนิสิต
ลายมือชื่อ อ.ที่ปรึกษาหลัก
ลายมือชื่อ อ.ที่ปรึกษาร่วม

6181209024 : MAJOR INTERNATIONAL DEVELOPMENT STUDIES

KEYWORD civil partnership, marriage equality, marriage, legal registration,
D: discourse

Thanita Wongprasert : THAI CIVIL PARTNERSHIP IS THE NEW MARRIAGE INEQUALITY:QUEER CRITIQUES ON THE DISCOURSES IN THE CIVIL PARTNERSHIP BILL OF STATE ACTIVISM TOWARDS MARRIAGE 'EQUALITY' . Advisor: Assoc. Prof. Dr. SORAVIS JAYANAMA, Ph.D. Co-advisor: Dr. Narupon Duangwises, Ph.D.

With an equal access to legal registration becoming the international mainstream development agenda and movement of 21st century, Thailand proposed a civil partnership bill developed by the Rights and Liberties Protection Department in 2018. Although the initiative seems promisingly progressive, the drafting, legal product and outcomes that the bill promises to bring lay vigorous ground of criticisms. This thesis is the first English-language academic work that uniquely integrates theoretical outlook and arguments of queer theory where Foucauldian discourse analysis is the key concept applied to critique the discourses codified in the bill. This thesis aims to *analyze how Thai discourse of marriage affects state activism of marriage equality through the proposal of controversial civil partnership and argue how it is a new marriage inequality*. This thesis presents key findings derived from secondary sources, content analysis of the bill, interviews with key actors, participation in relevant activities and events and insights from the author as an activist. The discourse of marriage in Thailand is more social and cultural than legal where witnessed ceremony without registration with state is regarded as recognition. Interacting with foreign influences, the civil partnership as a new registration system was proposed to make marriage more gender-inclusive and arguably equal, however the criticisms prove otherwise. Thai movement of marriage equality faces internal complexity among the civil society and state authorities. This paper concludes that beyond the limitation of rights, the civil partnership bill is a new marriage inequality. The oppressive institution of marriage whose discourse is monopolized by state is used as a tool to control and discipline Thai LGBTI couples. The discriminative civil partnership act normalizes and compromises the needs of the community with statist interest of state, enabling the reproduction and idealization of state-approved norms and expectations.

Field of Study:	International Development Studies	Student's Signature
Academic Year:	2018	Advisor's Signature
		Co-advisor's Signature

ACKNOWLEDGEMENTS

Primarily, I must thank my family and friends in and outside of Thailand who walked with me throughout this journey and provided me with supports.

This thesis reaches its success by the provision of supports of the five professors on the thesis committee. Professor Jakkrit Sangkhamanee, as a chair, ensured that all processes went as smoothly as possible. Professor Soravis Jayanama, as an advisor, introduced me to the academic world where queer theory of my interest makes more practical sense in relation to other fields. Professor Narupon Duangwises, as a co-advisor and one of the key queer scholars in Thailand, shaped my understanding of queer theory in matters of hours. Professor Peter Anthony Jackson, as an external examiner, bettered my understanding of queer theory in close relation to Thai context. Professor Douglas Sanders, as an external examiner, provided me with knowledge on the legal processes, systems and case studies of legal recognition of same-sex relationship not only in Thailand but the rest of world shaping the analysis of this thesis.

My gratitude must also be expressed to Thai governmental authorities, civil society organizations, independent advocates, and affected communities for the valuable knowledge you shared to push this thesis forwards to success and to prove the importance of the issue in Thai society.

I am emotional and intellectually rewarded by this thesis. A number of curious questions are addressed. Til the next one.

Thanita Wongprasert

TABLE OF CONTENTS

	Page
ABSTRACT (THAI)	iii
ABSTRACT (ENGLISH).....	iv
ACKNOWLEDGEMENTS.....	v
TABLE OF CONTENTS.....	vi
List of tables.....	ix
List of figures.....	x
List of Abbreviations	i
Chapter 1.....	1
Introduction.....	1
1.1 Background.....	1
1.2 Problem Statement.....	1
1.3 Research Questions.....	2
1.4 Objectives	3
1.5 Conceptual Framework.....	4
1.6 Significance of the Study.....	5
Chapter 2.....	7
Review of Literature on Marriage Equality	7
2.1 Debates That Support Marriage Equality	7
2.2 Debates That Critique Marriage Equality and the Introduction to Queer Theory	11
Chapter 3.....	17
Research Methodology	17
3.1 Overview of Research Design	17

3.2 Data Collection	17
3.3 Data Analysis and Interpretation	20
Chapter 4.....	22
Result Part 1: Thai Discourse of Marriage	22
4.1 Understanding the Thai Marriage	22
4.1.1 Definition of Terms in Thai Language.....	22
4.1.2 Conditions of Marriage in Thailand	24
4.2 What Makes Thai Marriage Discourse?	26
4.2.1 Traditional Marriage Customs.....	26
4.2.2 Roles of Family	31
4.2.3 Social Norms Written in Marriage and Family Laws	33
4.2 Influences on Thai Marriage Discourse.....	36
4.3.1 Modernization on Thai Family and Marriage Legislations.....	37
4.3.2 Assimilation of Diverse Cultures	38
Chapter 5.....	41
Result Part 2: The Proposal of Civil Partnership Bill.....	41
5.1 Achieving Marriage Equality Through Civil Partnership	41
5.2 Marriage Equality in the Agenda of Thai Government.....	46
5.3 The Proposed Civil Partnership Bill	57
5.3.1 Why Was the Bill Proposed?.....	57
5.3.2 How Are ‘Partners’ Defined?	57
5.3.3 What Are the Protected Rights?	58
5.3.4 Where Is the Bill Now?	60
5.4 How Inclusive v Inclusive How?.....	62
5.4.1 Government <i>Guaranteed</i> Inclusion.....	62

5.4.2 Excluded Voice of Civil Society	66
5.5 Criticisms	71
5.6 In Defense of State.....	75
Chapter 6.....	79
Analysis of Key Findings.....	79
Thesis 1: Civil partnership, a registration system for legal recognition, is a tool of the state to control behaviors, influence decisions of its citizens and discipline relationships.....	79
Thesis 2: State-orchestrated civil partnership is based on the interest of state that sustains the inequality in legal marriage	82
Thesis 3: Civil partnership augments state’s monopolized power over marriage discourse	84
Thesis 4: Civil partnership produces a new chapter of Thai marriage discourse that is an ideal trap.....	88
Thesis 5: Civil partnership is homonormative	91
Conclusion	95
REFERENCES	97
VITA.....	102

List of tables

	Page
Table 1: Methodology Matrix	20
Table 2: Conditions of Marriage in Thailand	26
Table 3: Thai Traditional Customs of Marriage	29
Table 4: Timeline Leading Up to the Proposal of Civil Partnership Bill	57
Table 5: Content of the Proposed Draft	59
Table 6: Principles of Civil Society Draft of Civil Partnership	68
Table 7: Areas of Legal Challenges	72
Table 8: State Defense on Criticisms of Civil Partnership Bill	78

List of figures

	Page
Figure 1: Thai Traditional Wedding Ceremony.....	27
Figure 2: The March of Kabuan Khan Maak.....	30
Figure 3: Thai Married Couple Performing Pu Tee Norn Tradition.....	31
Figure 4: Three Cambodian LGBT Couples Signed the Declaration of Family Relationship	43
Figure 5: Amsterdam Gay Pride 2019.....	45
Figure 6: A Committee Meeting on Civil Partnership Draft on December 18, 2018	46
Figure 7: Natee at Chiang Mai Mueang District Office (August 9, 2012).....	48
Figure 8: Gordon and Manuel with Baby Carmen after Legal Custodial Victory.....	52
Figure 9: The International Day Against Homophobia, Transphobia & Biphobia Event on May 17, 2017	53
Figure 10: Representatives from 10 Political Parties in Discussion of Thai Marriage Equality on November 29, 2018	62
Figure 11: Launch Event of 1448 For All in February 2019	70

List of Abbreviations

CCC	Civil and Commercial Code
CSO	Civil Society Organization
FORSOGI	Foundation for Sexual Orientation and Gender Identity Rights and Justice
HRBA	Human-Rights Based Approach
IPA	Interpretive Policy Analysis
LGBTI	Lesbian, Gay, Bisexual, Transgender, Intersex
MOJ	Ministry of Justice
NESDB	Office of the National Economic and Social Development Board of Thailand
NGO	Non-Governmental Organization
NHRP	National Human Rights Plan
PACS	Pacte Civil De Solidarité
RLPD	Rights and Liberties Protection Department
SOGI	Sexual Orientation and Gender Identity
SOGIESC	Sexual Orientation, Gender Identity and Expression and Sex Characteristics
TEA	Together for Equity and Actions Group
UNFPA	United Nations Population Fund

Chapter 1

Introduction

1.1 Background

This thesis engages in the political activism of marriage equality in Thailand, which has been promoted as one of the most LGBTI-progressive nations in Southeast Asia. Non-heterosexual persons living in the kingdom generally can express their gender identities and sexual orientation without fear of state persecutions. Contradictorily, the lack of protective legislations in various aspects of life for persons with diverse sexual orientation, gender identity and expression and sex characteristics (SOGIESC) has proven to be prevalent and remains somewhat challenging among the civil society and advocates. Thailand's SOGIESC civil society organizations (CSOs) have been well-connected and strengthened by both domestic and international supporters. They are able to participate, negotiate and collaborate with the government authorities, especially the past few decades. The area of issue that this thesis aims to highlight is the pursuit of the legal registration towards equal marriage law. The national marriage law is an umbrella law that consists of a number of marriage and family rights that remain intersectionally discriminative in this present day. Non-heterosexual couples are excluded from getting benefits from the law. Marriage inequality has direct impact on those individuals and couples, both on a daily basis and during the time of crises and emergencies. As a consequence, Thai government authorities have demonstrated an interest in the development of marriage equality. The Right and Liberties Protection Department (RLPD) was assigned in charge of this initiative in 2013. It is not until 2018 that the issue of civil partnership bill in Thailand becomes widely revised and discussed locally and internationally.

1.2 Problem Statement

The problem that this thesis aims to address is the limited perspectives on criticisms of Thailand's proposed civil partnership bill that aims to enhance equality in the institution of marriage. The development in the area of marriage equality in Thailand remains understudied and monotoned. It imposes struggles and challenges on the authorities and civil society. An informed decision could not be made effectively without a proper set of knowledge, which fundamentally drives and supports the movement. The proposed alternatives to civil partnership have also been narrow and normative as to amend the national Civil Code, shunning away from discussion of problems identification, critical questions and possible resolutions. The criticisms currently surround the context of the bill. Related studies in Thailand focus on an analysis of the rights or content of the bill, policy formulation and legal processes in Thai system. The gap of knowledge that this thesis attempts to fill is a deeper and more fundamental and structural context of the Thai marriage institution, analyzing state's civil partnership draft. Marriage equality has normatively highlighted on the legislative reforms but in practical reality the greater contributor of tangible equality, such as the roles of state, origin of agenda and state motivation, have been overlooked. It is the discourse that underlines these missing criticisms, therefore is a unit of analysis of this thesis. Most importantly, if this problem is neglected, the effect on the impact of the bill will be deeply and negatively felt by the affected communities and individuals. The granted marriage and family rights could end up strategically dominating and oppressing instead of protecting them. The movement will be prolonged as the goal and unified approach towards marriage equality sustain what it aims to tackle.

1.3 Research Questions

The main research question of this thesis asks *how does Thai discourse of marriage institution affect the proposal of civil partnership bill?*

Sub-questions on Thai discourse of marriage institution:

- How are the terms ‘marriage’ and ‘marriage equality’ connoted in Thailand’s context?
- What are the unique characteristics of Thai marriage?
- What are the factors that influence Thai marriage and its legal registration system?

Sub-questions on Thai political activism of marriage equality:

- How did the agenda of marriage equality originated in Thailand?
- Why was civil union justified by state as a strategic and suitable tool to achieve marriage equality?
- To what extent have the Thai political activists (dis)agreed with the proposed civil partnership bill and its process?
- What are some alternatives to marriage as tools to legal recognition?

1.4 Objectives

The main objective of this essay is to analyze how Thai discourse of marriage institution affects the proposal of civil partnership bill and its effects on marriage equality in Thailand. Other sub-objectives are as follows:

- To define the terms ‘marriage’ and ‘marriage equality’ in the context of Thailand
- To identify Thai traditional customs of marriage
- To identify the influences that make up the discourse of Thai marriage
- To understand how state activism of marriage equality is initiated
- To assess the inclusive participation of the drafting and proposal
- To understand the defense of state in response to the criticisms
- To criticize the roles of government in charge of advancing marriage equality

- To critique the proposed civil partnership as a legal tool to achieve marriage equality

1.5 Conceptual Framework

This thesis applies the concept of *Foucauldian discourse analysis*, one of queer theory's key analytical approaches, to answer the research question(s). Discourse in this thesis is scoped down as a narrative that has been constituted with nonobjective meaning and communicated as true reality. As a technology of power, there is produced and constructed knowledge behind the discourse that controls and regulates people in the society. It is a mechanism to exercise political power in the regime of knowledge. Definitions are invisibly discursive and man-made because the strategy is to insert them into social consciousness through knowledge and education. Consequently, discourses are subject neither challenges nor public scrutinization. Discourse however became an important theme raised by the emergence of Poststructuralism in the latter part of the 20th century. Discourse was a central focus of a renowned French thinker, Michael Foucault whose works undoubtedly contribute to the practice of discourse analysis. In his *The History of Sexuality* (1978), Foucault discussed that discourse analysis is an intellectual and counter-normative framework with unorthodox purposes of challenging the shaping of perceptions and critiquing the production of knowledge and construction of norms. Rather than the meaning, discourse analysis puts critical emphasis on how such meanings are driven, shaped and come about. The use of language, context and power relations are among the elements that should be taken into account when analyzing discourse. Normative standards are disguised regulation of behaviors.

In order to understand the mechanism of discourse, the understanding of normalization must be established. Normalization is a process of producing, reproducing, enforcing norms and values that are 'good' and repressing the 'bad'. The way of living can be considered real when it is built on a normal pathway, and unreal for the abnormal. Homophobia and barriers to access non-traditional marriage is an

epitome. Regarding marriage norms, we see that homosexuality, polygamy, polyamory, open relationship and other non-standards are marginalized as the ‘*bad*’. As a result, they are not equally recognized and benefitted from protections and rights. The normalization of marriage creates standards, stereotype, stigma, repression and norms within the legal institution. These products lead to what Foucault describes as the process of deployment (deviant), which includes marginalization, exclusion and discrimination—all have been systematically justified.

Heteronormativity, popularized by Michael Warner, is reflected in the politics of traditional marriage and family values. It is a fine product of the Western rationalization. It refers to scientific knowledge to enforce and justify norms i.e. a judgement on natural ability of the heterosexual couples to reproduce. Laws and policies regarding marriage and family have been reflected by those state-constructed norms. State uses marriage as a tool to control social order and manage their citizens. The protection it provides makes the whole process unnoticed and unchallenged. Branding gay marriage, it is a brand-new tool to continue this cycle. But it can only end up with homonormativity, which would result in the same thing but with different marginalized audiences. The activism towards marriage equality will be endless for the state, civil society and most importantly the affected communities.

จุฬาลงกรณ์มหาวิทยาลัย
CHULALONGKORN UNIVERSITY

1.6 Significance of the Study

This thesis will produce tremendous contribution to academic knowledge. Marriage equality in the context of Thailand and Southeast Asia has been understudied. It would be the first English-language academic work that critically analyzes the process and content of the proposed civil partnership bill, as a result of Thai marriage discourse. It is certainly the first Thai academic work that integrates the arguments of queer theory to establish an understanding of the marriage equality in Thai sociopolitical activism of state.

On a more practical side, this thesis aims to benefit the affected communities by establishing the understanding of marriage in modern Thai society and political activism of marriage equality. The awareness of the civil partnership that will have inescapable impacts on their and partnered lives is to be gained. This thesis will also be of use for the civil society and activists, on their strategies of advocacy and activism. They will be better able to identify challenges and design solutions, in collaboration with the authorities where possible. It will help strengthen not only the Thai politics in this area, but also the lawmakers and policymakers on revising the development and improvement of the legal products.



Chapter 2

Review of Literature on Marriage Equality

The advocacy of marriage equality was initiated by the Western societies. Marriage institution has undergone the evolution, shifting its focus on property transference to companion commitment, love and human rights. Homosexuals who have been excluded from traditional legal union and treated as secondary citizens began to shape the narratives in the latter part of 20th century when civil right movements took place in several developed countries. As the relationship of non-heterosexuals become out of the closet and more liberated, legal recognition is sought. In 2001, same-sex marriage was first legalized in the Netherlands. Since then, the movement has grown into public awareness. Other parts of the world follow the lead. By 2018, almost 30 countries around the world. In Asia, Taiwan is the first Asian to ever draft the law and legalize it in May 2019. As the sociopolitical movement of marriage equality emerges, logical arguments in academic world have been produced to justify the principles. The key theoretical arguments that support or critique marriage equality are synthesized in this literature review.

2.1 Debates That Support Marriage Equality

In his *The Fundamental Argument for Same-Sex Marriage* (1999), Ralph Wedgwood focuses on the principle of equality as the most fundamental ground to legalize same-sex marriage. The legal institution of marriage is also social in the way that it is influenced by social norms and meaning of marriage. Marriage traditionally oppresses homosexual couples in form of exclusion and has been understood to protect and benefit heterosexual couples through social norms. As equality becomes highly valued in modern international society, the perspectives on gay marriage are driven towards a more positive and liberal pathway. Nondiscrimination has then been reflected on the legal civil marriage.

The right to marry exists in a number of international instruments and covenants. Martha Nussbaum (2010) explains the rationale behind the right to marry. Marriage is connected to a person on several levels. The marriage institution plays roles in benefiting human relationship and simultaneously associating with government benefits. It is a legal platform to fulfill human and partnered lives. Marriage inequality where LGBTI persons are deprived of rights is therefore considered as a violation of human rights. Legal marriage rights and protection not only respect human dignity, but also are deserved as fundamental civil rights. Anyone of any gender should be entitled to access it.

Equal rights and nondiscrimination have often been referred to when addressing conservative arguments against gay marriage. Beyond the right to marry, the right to privacy has been linked to the analyses of marriage equality by William M. Hohengarten (1994). His main argument is that state should not interfere and make decisions, which concern the private life and/or family of the citizens through laws and policies. They include state interference and regulations, for example to indirectly coerce whom to or not to be in a relationship with and the ability to adopt or have children. Instead, it has the obligation to provide legal framework to protect their interest and respect their privacy and freedom.



In the context of Thailand, the study of marriage equality is predominantly in the study of laws. They cover issues that are related to (human) rights, gender equality, policymaking, comparative study to foreign laws, analysis of the civil partnership draft and suggestions on legal approaches to achieve equality in marriage. Drawing from these studies, civil partnership is considered both as a great step towards marriage equality and flagged inequality.

Nanuch Kamthong's book *Same-Sex Marriage* (2003) supports a law that is separate from the Civil and Commercial Code. The act should lead to equal treatment as spouses.

The focus is on inheritance and property rights. The access to assisted reproductive technology should not be granted because problems can spring out of confused gender roles in family. Adoption is also not supported because Thai government would point it out as a concern.

In his dissertation, Nattawut Chaisayan (2015) shares an interesting viewpoint on adoption and access to assisted reproductive technology, arguing that the rights might not have to be in the relationship recognition legislation. Procreating a child to sustain humanity is a natural burden of heterosexual couples, as fathers and mother. In terms of adoption, Thai law allows a non-married and non-registered person to adopt anyway.

In 2016, Pornchai Panoon studied the formulation of same-sex marriage registration policy in Thailand. The article is in Thai language and published by Suan Sunandha Rajabhat University. A special committee was set up to take a formal complaint from a gay couple who were refused to register a marriage, leading to the drafting of civil partnership bill. Policymaking in this area is driven from several reasons. The lack of equality and marital rights and benefits were the keys. The voice of LGBTI communities in Thailand is also amplified. The concern of social acceptance of homosexual family as a possible problem in Thai society is expressed. The conducted survey shows that majority of Thai people support the policy of marriage equality, providing the reference to a public opinion survey on the issue of legal relationship recognition. Media plays a consistently-influential part in portraying the movement, people's participation, as well as the supports from political parties, such as Phue Thai and Democrat Party.

In 2016, Chavalit Srichomngam studied the protection of marriage rights for persons with diverse gender and sexuality in Thailand in his research report. It is recommended that an act be drafted and separated from the existing marriage laws in the Civil Code.

The case of marriage inequality could be taken to constitutional court but would lose the *unconstitutional* accusation.

Chawinroj Terapachalaphon's *Marriage Equality Rights for Sexual Diversity People in Thailand (2017)* identifies in this Thai thesis that current marriage inequality in Thailand is a result of the Civil Code. Providing with neither rights nor duties, non-heterosexual couples become irrelevant to the Code. The enactment of Gender Equality Act in 2015 that ensures nondiscrimination fails to enhance marriage equality. Thorough analysis of Civil Code amendment and civil partnership is completed in this thesis. His argument is that the Code should be amended to value the equality, dignity and rights for persons with sexual orientation and gender identities instead of a civil partnership. The analysis becomes increasingly important when some political parties or persons in parliament now support the approach.

In the article, Rinyapath Na Songkla's *Equality In Marriage of Gender Diverse People in Thailand (2017)* supports the draft of civil partnership as "*the first important step to eliminate gender discrimination*" in Thailand. This thesis notes that the article was published at the time when there was no official draft. International treaties are referred as ground to suggest the government on legal protection. Countries, such as France and the US specifically the states of Vermont and California, are studied for comparison.

In 2018, the publication of the Thai Parliament written by Sirichanok Viriyakurkul covers the discussion on spousal rights for same-sex couple. Specifically, it argues that Thai civil partnership act appropriately substitutes marriage registration. The Canadian Civil Marriage Act of 2005 is specific case comparative study. It is stressed that Section 27 in Thai constitution ensures equal rights and liberty in the name of law.

2.2 Debates That Critique Marriage Equality and the Introduction to Queer Theory

In 2014, Adam Jowett identifies and examines 7 arguments against marriage equality. In his article, non-heterosexual marriage is subject to debate with the conservatives who traditionally believe that marriage is only a union of a man and a woman. Procreation is also supported by marriage institution. They believe that same-sex marriage paves the way for slippery slope of marriage institution where polygamy and incest would become practiced. Many of these arguments influentially come from religious teaching and believes. The arguments also extend to have political justification, claiming that it threatens democracy and that government has more problematic priorities to address. However, these kinds of connotations are being critically challenged and unaccounted for in modern society.

Kristina Wolff argues in her *“I Do, I Don’t: The Benefits and Perils of Legalizing Same-Sex Marriage in the United States—One Year Later”* (2017) that positive changes for LGBTI communities are better off with the capacity approach than the right-based one. Legal marriage has negative and unaware side effects. For example, LGBTI would become more exposed to discrimination and face struggles in the pursuit of ideal social marriage. She further explains that marriage should not be made a prioritized advocacy agenda as there are a number of other issues that could reduce daily *“struggles and injustice”* that are intersectional, such as classism, racism and transphobia, and could enhance their standards of living.

Badget explains in *“When Gay People Get Married”* (2009) how *“marriage dissidents”* think that marriage change gay people. Gay marriage is an institution that domesticate the homosexuals. Legal obligations and rights, expectations from society and changes in kinship change the couples’ lives. The loss of privacy, individuality and independence are likely to be concerned when married.

In “*Gay Marriage: For Better or For Worse*” (2006), Eskridge and Spedale collate key arguments against gay marriage. The slippery slope is brought up in the natural law argument. Some people perceive the evolution of marriage as sectarian and therefore choose not to support it. Gay marriage is also like “*placing a stamp of approval on homosexuality*” when the movement is supposed to promote noninterference and non-judgement in private relationship. In mainstream political discourse, gay marriage has become so international that the debate has gone beyond personal issue and unique experience of non-Western countries.

Against Equality (2010) is a book edited by Ryan Conrad. The chapters provide queer critiques of same-sex marriage. Kate Bornstein (2010) describes marriage as a privileging institution. Beyond sexuality and gender, the institution of marriage oppresses people on the basis of “*race, class, age, looks, ability, citizenship, family status, and language.*” In “*Marriage is Murder*” (2010), Eric Stanley highlights that marriage has been focused on financial and legal benefits, referring to family values. Wealth and power have been associated with it. Marriage is misunderstood as freedom when interfered and regulated by state and laws. Gay marriage is an epidemic because people are trapped in what they see as reforms. Spade and Willse adds that although marriage is politics that perpetuate inequality, it has been used as a “*good measure of support for LGBT communities*”. The institution favors one over another who becomes punished and endangered. Campaigning for the legalization gay marriage does not solve problems, such as “*health care access, immigration, child custody, and symbolic equality*”. Kaufman and Miles (2010) note that gay marriage agenda “*fractures our communities, pits us against natural allies, supports unequal power structures, obscures urgent queer concerns, abandons struggle for mutual sustainability inside queer communities and disregards our awesomely fabulous queer history*”. Marriage sets the standards that most heterosexual and homosexual people in society have to change to fit in and follow. Marriage equality is a single issue that focuses on just one particular goal and fails to integrate other serious issues. It leaves behind history because once the rights are granted, the advocates are satisfied and will disappear.

Sycamore (2010) points out that marriage is where “*beating up, raping and abusing*” take place and get away with it. Marriage is not a “*universal-based*” for all but “*privilege-shaped*” campaign for a few. Marriage equality campaigns not only cut down budgets for other significant issues like HIV but also does not give health care for everyone, as privileged to spouses. A lot of LGBTI people are sick or dead from the disease.

This thesis systematically holds on the ontology and epistemology of queer theory. Queer is neither gender identity nor sexual orientation. Using labels to define certain characteristics is rather what the theory itself opposes. Instead, it is a well established political theory and critical modes of critiques with central theme on gender in sociopolitical context. Some scholars describes queer theory as post-gender, un-doing gender. (Palazzani, 2012) New York Times raised that queer theory has succeeded in embracing its arguments to other disciplines and earning its place in mainstream scholarship. (Smith, 1998) Furthermore, Reece-Miller and Endo (2010) suggested that queer theory should go beyond engaging with merely specialized fields and the connection with other areas should be made. There are multiple strands that emerge out of the development of queer theory. They can be exemplified by the Deconstructionist, Antisocial, Anarchist, Anti-Essentialist, Activist and Non-Binarist strands of queer theory. (Eckert, 2016; Halberstam, 2013) Queer theory is rooted out of the works that resembles the concepts of post-structuralists, notably by Foucault. Michael Foucault wrote *The History of Sexuality* (1978). It critiques the role of power over sexuality, providing the foundation and formulation of queer theory. Foucault critiqued how social lives are treated as subjects that are administered into order by the exercise of political power and knowledge, which he called *discourse*. It is the power that decides what is normal or abnormal, right or wrong, and good or bad, in the area of gender and sexuality. Consequently, gender inequality and gender-based discrimination become and will always be the inevitable results. Queer theory also cannot be mentioned without the name of Judith P. Butler. Her work is essential to the formation of queer theory and her book is considered a queer masterpiece and mostly read. Butler’s *Gender Trouble: Feminism and the Subversion of Identity* (1990)

introduces the concept of ‘*gender performativity*’, which argues that gender identities are produced and constituted by repeated and ritualized gendered acts, which she calls performativity. This is a breakthrough and controversial argument. She believes that scientifically-defined biological sex and social gender are both socially constructed by generations of human beings. For Butler, there is no gender but only gender scripts that come with roles and effects. We are what we act like. Gender characteristics that we perform determine the gender we are. Butler argues that acting masculine makes one a man, not the other way round, which proves that masculinity is not monopolized by men. This mechanism of gender is closely related to sexuality. A person of any sex and gender characteristics can desire anyone of any sex and gender characteristics by nature, if without social restraints. Sex and gender are collateral because sex is gendered. Furthermore, D.M. Halperin’s *How To Be Gay* (2012) argues that the performance of these gender roles are also influenced by others who fall into the same gender category. E.K. Sedgwick (1990), another renowned queer theorist, published *The Epistemology of the Closet*. The word ‘*closet*’ is used as a metaphor to demonstrate the argument of why sexual binary of men and women should be deconstructed. She also famously attacks the repressive use of sexual identities, arguing that the practice of identification leads to stigma, stereotype and discrimination of sexually diverse groups. This idea is also supported by Diana Fuss who further explains in her *Identification Papers: Readings on Psychoanalysis, Sexuality, and Culture* (1995) why identification emerges as one of the most difficult political problem to solve. She also supports other queer arguments in *Inside/Out: Lesbian Theories, Gay Theories (After the Law)* (1991). Fuss provides an analysis on the opposition of heterosexuality and homosexuality. She suggests that homosexuality has been a ‘supplement’ to what has been considered as original such as heterosexuality. The last queer theorist that this thesis will specifically mention is Jack Halberstam. In *Female Masculinity Halberstam* (1998), Halberstam proves that gender can be more diverse that it is being allowed and understood. Female masculinity has existed but been pathologized, hidden and made downstream. Halberstam encourages that these gender categories be incorporated into mainstream society. In 2013, *Queer Betrayals in Queer Futures: Reconsidering Ethics, Activism, and the Political* was published. Halberstam illustrates a big picture of queer theory, key theorist and scholars and its multiple strands. Queer scholars commonly oppose to

the logic of normativity that establishes certain beliefs and practices as common sense. Queer theory has been criticized as radical, negative and betrayal, which in this context means that queer theory has entirely in its presence challenged the concept of the 'good'.

The central arguments that queer scholars and theorists agree on that make up queer theory and its critical mode of analysis include: 1) the criticisms of power and authorities, 2) discourse analysis and 3) criticisms of normativity. On the criticisms of power and authorities, state has been a traditional power holder in most of nations worldwide. Decision-making, policymaking, lawmaking all exercise under the power of state. Even though the participation and inclusion of people underlie such power, the compromise takes place in several occasions. Private sphere remains governed by the public sphere, shaping how one makes decisions. It is also the state that plays a key role of knowledge production. This includes the scientific understanding of sex, gender and sexuality. The produced and reproduced knowledge is a product of desired repression and normalization. Knowledge can dictate and justify exclusion and discrimination. Secondly, discourse analysis is a tool to challenge the state-defined norms and laws. One of the causes of inequality can be the discourse of equality. Discourse dominates what people (are made to) believe. The others live in the shadow of what the majority expect and not expect to see. Human relationship is relative. We are impacted by others on whom we also put impacts on. How others are treated by us, and vice versa, can be the echo of discourse. Sexuality and the opinions people hold for and against it are the products of discourses. Heteronormativity remains the primarily hegemonic voice when gender and sexuality are discussed. On the criticism of the normativity, queer scholars challenge what is believed to be 'normal'. This includes both heteronormativity and homonormativity. Gender binarism is also one of the frequently and heavily criticized topic. Normativity can be seen in a form of standards and norms. It is reflected in the laws and the ways certain groups are perceived. The use of gender labels that are socially identified and invisibly regulated have been proved to construct unequal gender roles and further complicate the identity politics.

While marriage equality is valued and promoted as basic human rights, queer theory critically engages to propose the alternative way of looking at it. Snyder explains in *Gay Marriage and Democracy: Equality for All*, published in 2006, particularly Chapter 7: *Marriage Equality and Sexual Freedom: Toward a More Progressive Union*, how queer scholars might critically and logically oppose to the idea of same-sex marriage. Marriage is perceived as a constructed institution that interferes and restrains sexual freedom of the people. Another outstanding work of queer scholar that critiques on gay marriage is by Michael Warner. His *The Trouble with Normal: Sex, Politics, and the Ethics of Queerl Life*, Chapter 3: *Normal and Normaller—Beyond Gay Marriage* (1999), proposes that the concept of normalization has been spread to the movement for gay marriage. The normativity asserts itself into the goal of the moment since the 1990s. Warner sees that LGBTI activists are becoming parts of the ‘normal’ and living more like the heterosexuals. Marked as an inindicator for victory of LGBTI communities, marriage is seen as ideal and a solution to solve inequality and discrimination. It is very debatable because the institution of marriage itself have excluded and discriminated LGBTI throughout the history. Marriage represents formality and privileges for the ‘normal’ and the ‘good’ rather than for all. Marriage is not a choice but an offer because in exchange with legal rights and benefits, people are taught to value the regulations that restrain their desires and freedom. The marriage equality movement strengthens its own institution rather than the beneficiaries. This fine work helps guide this thesis to see marriage in different light and inspire critical arguments.

Chapter 3

Research Methodology

3.1 Overview of Research Design

Qualitative method is mainly used in this research. Key findings are derived from secondary sources, content analysis of the bill, interviews with key actors, participation in relevant activities and events and insights from the author as an activist. They enable the author to understand the background of the studied topic and theoretical perspectives to analyze collected data. The interviews of key informants include government officials, representatives of civil society organizations who have previously collaborated with the RLPD and those who criticize the department, members of the affected communities, academia, legal experts, drafting groups, all who are related to the Thai marriage equality agenda. In terms of scope, the coverage of this thesis studies the proposed civil partnership bill in analytical relation to the discourse of Thai marriage.

3.2 Data Collection

Research Questions	Data Needed	Data Collection Methods	Sources of Data
Result Part I: Thai Discourse of Marriage			
How are the terms 'marriage' and 'marriage equality' connoted in Thailand's context?	Marriage, legal registration, marriage equality	Secondary source research	Definition of marriage in Thai context

What are the unique characteristics of Thai marriage?	Thai traditional marriage customs, elements of marriage, social expectations, obligations, conditions of marriage	Secondary source research, Content analysis of key documents	Marriage and family laws on the civil code, Key texts on the history of Thai marriage
What are the factors that influence Thai marriage and its legal system of registration?	Roles of family, social norms, foreign influences	Secondary source research, Content analysis of key document	Texts on the history of Thai modernization and the enactment of marriage and family laws in the Civil Code
Result Part II: The Proposal of Civil Partnership Bill			
How did the agenda of marriage equality originated in Thailand?	The proposed civil partnership bill, Section 1448 in Thailand's Civil and Commercial Code	Semi-structured interview, Events, Content analysis of key documents	Interview with the director of the department, Interview with advocates who were involved in the early process, The proposed civil partnership bill
Why was civil union justified by state as a strategic and suitable tool to achieve marriage equality?	Political situation in Thailand, opinion of the national legislative assembly, standpoint of the	Semi-structured interview, Key events/activities, Secondary source research	Section 1448 in Civil Code, The proposed civil partnership bill, The RLPD's introductory

	council of state, UNDP consultation		presentations on the bill, Media articles, Interview with the RLPD, Interview with the civil society collaborating with the department, Interview with civil partnership supporters
To what extent have the Thai political activists (dis)agreed with the proposed civil partnership bill and its process?	Protected rights in the bill, drafting process, inclusive participation, civil society draft, reproduced values in the bill, opinion of relevant state authorities	Semi-structured interview, Key events/activities, Secondary source research	Academic articles, Media articles, Key informants, Interview with pro-1448 activists/organizations, Interview with the affected communities, Interview with representatives of Thai political parties
What are some alternatives to marriage as tools to legal recognition?	Cohabitation, customization registration systems, marriage	Secondary source research, Semi-structured interview	Key informants, Existing legal approaches/legislations
Analytical Discussion			

How does Thai discourse of marriage institution affect the proposal of civil partnership?	The ontology and epistemology of queer theory, critical analysis of (gay) marriage and the normalization of marriage institution	Secondary source research	Key texts on queer theory, Arguments of queer theorists
---	--	---------------------------	---

Table 1: Methodology Matrix

3.3 Data Analysis and Interpretation

Because policies are discursive, the discursive approach paves a way for researchers to gain specific understanding of a particular part of particular policy. (Yanow, 2000) Discourse builds and maintains the structure of marriage and family institutions where non-heteronormative people remain discriminated. Marriage is promoted along with legal rights and benefits, in exchange with behaving as the state expects. The norms are means to control the society. Obligations and responsibilities are in place to enforce them. Marriage also evolves through '*temporal themes*', such as development, changes and transformation, which are disguised to sustain the traditional norms. People with diverse SOGIESC believe that achieving marriage equality through the rights that are traditionally privileges for heterosexual couples, could lead them to the mainstream equality. This thesis will apply the concept of intertextuality when analyzing marriage. It means that marriage is taught in different contexts and there are common links between them to be analyzed. This is why the discourse of marriage has been well reproduced. Marriage will be seen in relation of other areas in the big picture. This includes the reproduced concepts of marriage and marriage equality as a movement and the reading of the reading of texts about marriage. The process to understand the intertextuality can be divided into 3 simple steps. (Perugini & Gordon, 2015) The first is to read the original text of the official discourse, in this case on marriage. It can be written laws, policies and official statement, mostly enforced by the

government, head of state, civil servants, as well as international institutions. The second step then is to read the understanding of the text by non-state actors, civil society, academics, political oppositions with a purpose to understand how marriage equality is understood through policy debates, marginal political discourses, social movements, media texts, cultural representation, such as popular culture. The last step is to compare the two versions of understanding with constructive critiques.



Chapter 4

Result Part 1: Thai Discourse of Marriage

This chapter explores legal and cultural aspects of marriage in Thailand. The registration is legal and ceremonial customs are cultural. Each serves different purpose. Thai people had lived together (*klong reun*) and considered as married even before the legal registration was introduced and promoted in the society as a part of modernization.

4.1 Understanding the Thai Marriage

4.1.1 Definition of Terms in Thai Language

The understanding and perception of marriage varies culture by culture. Language plays significant parts in the formation, maintenance and revision of its discourse. The term '*marriage*' connotes differently in Thai and English, contributing to differences in marriage discourses. The definitions of crucial terms are specifically clarified in the below paragraphs.



English: Marriage

Thai: การแต่งงาน (kan-tang-ngan)

Marriage in Thailand is non-legally binding. A sociocultural ceremony witnessed by family and friends could equate to a recognition of the two individuals who intend to live together as a married union. This implies that without legal and religious authorities the couples can marry themselves in the ceremony with no legal consequences. Thai marriage is a separate and optional step before or after the legal registration. The Office of the Royal Society of Thailand, in charge of writing and

revising Thai dictionary (2011), translates ‘*marriage*’ as a *traditional ceremony that recognizes a man and a woman as a union of a husband and a wife*. Globally-known English dictionaries, namely Oxford, Cambridge, Macmillan and Collins point out the differences between the Thai and Western understanding of marriage. The words that connote *legal relationship, formal/official recognition, and people* or in some case *people of same-sex* are absent in Thai definition. It is the *traditional ceremony* that gives a characteristic richness of cultural rituals in Thai marriage. *Kan-tang-ngan* remains closely bonded with the ceremony, although the customs have been compromised. This explains how persons of diverse sexual orientations and gender identities in Thailand can be considered married on social and non-legal basis.

Legal Registration

English: Legal registration

Thai: การจดทะเบียนสมรส (kan-jod-tabien-somrod)

Kan-jod-tabien-somrod is a legal practice that goes alongside with marriage ceremony where a couple legally registers for a marriage certificate at the district offices of any branches within the Kingdom of Thailand. The registered information is collected in the Registry Office of Thailand, enabling state authorities to legally recognize the union. Currently, Thailand’s Civil and Commercial Code (CCC) only recognizes a man and a woman who register the marriage as *spouses (koo-somrods)* who become eligible of legal rights, benefits and obligations, provided and guided by state and the Code. This is a different separate registration system from civil partnership that recognizes registered *non-heterosexual* couples as legal *partners (koo-chewits)*. Because *partner* remains an unacquainted terminology of CCC, marriage and family rights are separately granted.

Marriage Equality

English: Marriage equality

Thai: ความเสมอภาคทางการสมรส (kwam-samerpak-tangkan-somrod)

Kwam-samerpak-tangkan-somrod is a Thai name for the international sociopolitical movement of *marriage equality*. Instead of *same-sex marriage*, this thesis refers *marriage equality* to a stage where individuals have equal access to legal registration—the provision of marriage and family rights and benefits. It carries a more inclusive and gender-neutral connotation, complimenting the movement goal. The terms *legal recognition of relationship* will also be interchangeably used because the legal instruments used to achieve marriage equality vary from one context to another. This phenomenal project has a legally-binding aim and objectives that involve legislative changes.



Civil Partnership

English: Civil Partnership

Thai: การจดทะเบียนคู่ชีวิต (kan-jod-tabien-koo-cheewit)

Legal systems recognize same-sex relationship differently. The registration system proposed in Thailand for non-heterosexual couples is civil partnership. While life partnership is a terminology used interchangeably by academia and media, this thesis refers to the bill under the name of civil partnership because the authority who drafted it calls it so. Civil partnership is neither marriage nor registration of marriage. It recognizes the couples as partners. The granted rights are specified by each particular enacted bill.

4.1.2 Conditions of Marriage in Thailand

The conditions of Thai legal marriage are enforced in Chapter 2, Book 5 of the CCC where national family and marriage laws are located. The acknowledgement of legality of marriage registration is translated into the understanding of discourse of Thai marriage. Section code of 1448 to 1460 that cover the list of standards are in the table below (*Thai Civil and Commercial Code, 1934*):

Standard	Requirement
<i>Sex</i>	The criteria of sex falls into a category of minimum age with no stand-alone Section code, clearly stating that individuals of opposite sex are eligible to legally register marriage. Section 1448 specifies that legal marriage is a union between a man and a woman.
<i>Minimum Age</i>	The current legal minimum age for legal registration of marriage is 17 for individuals of both sexes.
<i>Mental Capacity</i>	The individuals who have the intention to register a legal marriage must not possess mental insanity or incompetency at the time of registering because the registration involve a number of decisions that have legal consequences.
<i>Incest</i>	It is illegal for the individuals to register for a marriage license with a person of who are biologically related.
<i>Adoption</i>	Thai laws do not allow registered couples but only a single person to adopt a child from the biological parents. This applies to both cases of domestic and inter-country adoption.
<i>A Number of Individuals in a Union</i>	Marriage is a monogamous union of two. Bigamy where a person registers more than one marriage license having more than one legal spouse is illegal.

<i>Consent</i>	The registration cannot be forced. It is mandatory for both parties to give consent at the registrar. In a case for minors, the consent must be provided by legal parents and shall they be absent the court has the authority to make the decision.
<i>Officiality</i>	The marriage becomes official upon the legal registration.
<i>Public Declaration</i>	According to Section code of 1458, the agreement to become a legal union must be publicly declared before the record at the registrar. However, there is no specific guidance to how public declaration is measured.
<i>Recognition</i>	Thai persons who register their marriages with Thai or foreign persons outside of Thailand are recognized by state as spouses.

Table 2: Conditions of Marriage in Thailand

4.2 What Makes Thai Marriage Discourse?

A critical analysis of the Thai marriage discourse initially starts with an awareness of different social ingredients that make the union. This section identifies 3 sets of influences on the discourse, which are 1) traditional marriage customs, 2) roles of family and 3) social norms written in marriage and family laws. These components hold interconnected links.

4.2.1 Traditional Marriage Customs

Vary from time to time, traditional marriage customs make Thai marriage unique. This section presents traditional customs of Thai marriage ceremony mostly practiced among upper-class elites and formally documented by Phraya Anuman Rajadhon (1969), Sathirakoses as his pen name. He was a well-respected philosopher, academia and public figure of Siam whose works continue to be a grand literature in the area of Thai culture and society. One of his books, specifies the marriage traditions

of Thailand. Nowadays, some of the documented customs are retained, while others have been added and simplified or compromised out off the list. The knowledge of these practices helps understand how marriage is perceived in Thai context.



Figure 1: Thai Traditional Wedding Ceremony

(Source: <https://sites.google.com/site/prathesthiynaxyu/08-watnthrrm-khxng-thiy/08-2-prapheni-taengngan-baeb-thiy>)

Customs	Description
<i>Auspiciousity</i>	Marriage is an auspicious ceremony, known in Thai as <i>Mongkol Somrod</i> . Auspicious times for all propitious days are identified in every step throughout the ceremony. Traditionally, a ceremony would not be held during the odd months and on the <i>wicked</i> or <i>spiritually doomsday</i> . This belief protects the married union from failures, divorce and unhappiness.

<i>Expression of Interest By the Matchmaker</i>	This is a custom of asking for the hand of the girl. The matchmakers are more senior, older and close to the marrying individuals. Usually, it is the mother of the man who vets the woman her son wants to marry and represents his interest to her family on behalf of him. This process can happen with or without the individuals knowing or dating each other.
<i>Negotiation of Bride Price</i>	Once the agreement and intention to get married are verbally finalized, it comes the time of negotiating on the amount of bride price for the family of a woman who can offer the number. The negotiation is to reach an agreement where both parties are satisfied.
<i>Tray of Gifts</i>	This is the proposal step from the groom to the family of the bride. The proposal is symbolized by dual trays: the first one is filled with raw betel nuts, which signify goodwill and the second one is filled with money, or gold, or valuable goods. The valuables are the same as deposit system to help prevent the changing of decision. This well-arranged tradition has 2 main purposes. Firstly, it is to publicly announce that the couples are officially engaged. Secondly, it is to allow other older adults to witness the ceremony as the evidence. Sathirakoses pointed out that this custom is a “ <i>Gentleman’s agreement</i> ”, rather than legal agreement.
<i>Plook Ruen Hor</i>	Plook Ruen Hor is where the two families of the groom and bride build a house where they will reside after the ceremony. The family of a groom oversees the structure, pillars and foundation of the house, while the family of the bride is asked to furnish it. Thai culture accepts both patrilocality where a wife moves into the residence or neighborhood of her husband’s family and matrilocality where a husband moves in to the residence or neighborhood of his wife’s family. It depends on several factors

	and situations of the couples, such as time period, location and economic and social status. Ideally, the house should be completed by the time of the day of the wedding ceremony.
<i>Khan Maak Tang</i>	The Khan Maak Tang is the wedding ceremony. It starts off with Kabuan Khan Maak, which is a joyful musical march to where the bride is and ceremony will take place. (See Figure 2) The bowl is filled with the agreed amount of bride price that will be checked by the family of a bride before the groom enters the place. In the morning of the wedding day, the monks pray for luck for the couples. Later on in the afternoon and evening, the witness guests of the ceremony water the palms of the married couples, starting from a groom to a bride, with a conch shell.
<i>Pu Tee Norn</i>	This custom takes place after the wedding ceremony where a bride is sent to the residence. The senior adults, usually ones with successful life and marriage, are asked to make the bed for the married couples. Traditionally, the bride and groom then stage their laying on the bed. (See Figure 3)
<i>Norn Fao Hor</i>	This custom occurs when an auspicious day of the wedding ceremony is different from the one of the residence. It means that the groom has to wait for a day or up to a week when his wife can join him in the house. Until then, he has to sleep alone listening to the poem guiding how to be a good husband.

Table 3: Thai Traditional Customs of Marriage



Figure 2: The March of Kabuan Khan Maak
(Source: <https://pantip.com/topic/35453218>)





Figure 3: Thai Married Couple Performing Pu Tee Norn Tradition

(Source: <https://www.thesorentowedding.com/พิธีแต่งงานแบบไทย/>)

4.2.2 Roles of Family

Like other countries, marriage in Thailand cannot be separated from the construction of family. The relationship between family and marriage has been stressed importance. It can be argued that Thai marriage is a union of more than 2 because family has a lot of says. Marriage is a gate to a family, which lays as the most fundamental unit of society. Many of the traditional customs of marriage symbolize and ensure the stability of family and desired values be (re)produced. Family is a binding force of several aspects of life, including economy, society, education and politics. This section identifies the roles that family plays in marriage, as well as the underlining explanation.

The Roles

Family can interfere in the union even before the ceremony and/or legal marriage. First of all, it controls the environment of how individual is brought up. As a part of growing up, the values that shape the attitudes towards marriage and spouse selection are cultivated for the individual. In some families, it is beyond the guidance and parental permission allowing children to marry someone to arranged marriage. Parents take significant traditionally central parts in the marriage ceremony. They represent the interest of their children, negotiate the bride price, are key blessing witnesses that makes the whole ceremony formally official.

The roles are inherited from obligations that are in exchange of legal rights and benefits. Married individuals entailed responsibilities as members of family. The most current statistics on Thailand's population (UNFPA & NESDB, 2015) shows that 49.9% of Thai families are nuclear structured household. Small-sized household allows expected roles to be allocated and established. The roles of each family member, justified by gender roles, are taught in Thai schools as parts of civic duties. Such education remains stereotypical and patriarchal with a language of heteronormativity. One of the key textbooks that identifies individual responsibilities based on gender and influences the construction of Thai marriage discourse was written by Supattra Supap (1975). While a male husband/father is expected to work in order to finance the family, provide last name to the family and provide protection for his wife and children, a female wife/mother has roles to respect the husband and his parents, manage the saving of family finance, look after the properties of her husband, take care of children at home, be in charge of household chores, ensure the warmth in a family and many of the like, as well as in other books. The accuracy of such statement has been questioned and disproved over time, however some of the characteristics can still be featured in modern Thai families and education. The promotion of gender roles has inevitably affected the dynamic of household authorities.

The Reasons

Parents have a permission to interfere in children personal choices, simply because the children allow or see the benefits of it. Thai children are taught to pay respect to the parents and their decisions. The adults or elders are deemed to have more life, particularly matching and married, experience. Parents of a groom talking to ones of a bride is a more equivalent conversation. It is in their nature and best interest to get the best deal possible for their daughters and/or sons. This is a very collective culture to live in. Unlike the principles of individualism, a person is dependent on one another and this dependency is generational. Most of Thai children stay under the same roof with their parents until they are married and about to start a new family. The age maturity is what justified their designation of the future of the offspring as close to perfection as possible. This practice is well-established because the holding of authority has been reproduced over generations and is difficult to break the cycle, closely linked and in order with other marriage customs. Since Buddhism is not a religion that regulates its followers with strict customs of marriage but prioritizes individual enlightenment, family can take parts in making personal decisions over co-dependent partnership.

4.2.3 Social Norms Written in Marriage and Family Laws

Marriage reads the script of happiness. In Thai context, marriage is perceived as *sirimongkol* or auspicious. It is expected to happen at a proper time in a certain way. Social values are associated to shape the *successful* marriage, amplified by state, media, popular cultur media, development agencies and wedding industry. Norms are the tools to sustain created products. Marriage institution needs the normalization of standards to exist. The amplification of laws therefore is the repercussion of socially-enforced norms. Legal literature restricts personal freedom and provides the guidance to desired behaviors. This section discusses the norms that can be seen within Thai marriage and family laws.

Monogamy

Each type of marriage carries its own characteristics that influence the lives of married individuals and are reflected by social orders and discourse of marriage. Sanya Sanyawiwat (2001) categorizes Thai marriage into the two main types: monogamy and polygyny. Monogamy is the only current legal form of marriage in Thailand and most of other countries around the world. Two years after the 1932 Revolution that overthrew absolutism and transformed the kingdom into a constitutional monarchy, Western-influenced monogamy was legally normalized and taken into effect in 1934 in the Civil Code. Prior to this transformational change, polygyny was an acceptable and affordable practice among men and noblemen with wealth and power. In the present, any form of polygamy turns to be a marginalized alternative form of adultery, which proffers a ground to file a divorce and leads to be social stigma for countering social standards. In present Thailand, polygyny can only exist in practice and under personal arrangement because bigamy is legally impossible.

Legal Registration

Legal registration is essential to study because it takes part in shaping the discourse of marriage and activism of marriage equality. A relationship becomes legitimized by registration with state who grants the rights to reduced tax, joint property, custody, control over spouse's affairs, visitation and many more in order to facilitate the formation a union and family. Registration with state authorities is optional in Thailand. Marriage without legal registration has been common and moral-debates-free in Thai society both in historical and contemporary periods for a number of reasons. Tamara Loos (2005) argued that living together with no marriage license is an old pattern. Such practice has been widely conserved in modern Thai society. A doubt to register a marriage can spring out of a generalized assumption that marriage ceremony

can be as official as legal registration in Thailand. Thai marriage or ceremony is rich of traditional beliefs, rituals and customs that represent the desired values. Avoiding registration means avoiding legal obligations, complications and limitations over freedom. Registration helps legally manage assets and money, which most people can do themselves. Marriage is no longer a priority for millennials, who could find marriage a burden because they have been liberated with wider freedom, opportunities and rights, enabling independence to pursue professional careers and financial stability. For some non-registered marriage couples, recognition is counted by a ceremony witnessed by family members, friends, and in some cases head of communities or local non-Buddhist religious leaders. Their forms of commitment and concept of love might be different from expectation in legal papers. Last but not least, the couples are not eligible to legal system of registration on various basis, including gender and sexuality. Despite the reasons, legal recognition and its benefits have been promoted as an important of marriage union. It represents modernity and civilization. The reference to legal benefits is a ground for advocacy of marriage equality movement. These rights provide a comforting sense of security for the legally co-dependent and co-authorized union of marriage, as well as an economical foundation. Towards a model of healthy family, it is also an ideal way to demonstrate formal commitment and strengthen the union.

Publicity

Placing marriage into a public sphere is a way to promote marriage institution itself. Thai marriage law under Section 1458 requires public announcement declaring the agreement between the marriage individuals prior to the registration. (*Thai Civil and Commercial Code*, 1934) This is a norm that has been influenced by Thai marriage customs. It is significant that the union be socially and publicly recognized, whether it is the proposal, wedding ceremony and/or legal registration. Witnesses of a ceremony represent the formality of a marriage. Arranging the ceremony or registering with the state authorities in a dark light is considered unaccustomed to Thai society.

Gate to Another Life and Return of rewards

Thai marriage can be *sacred* in the way that it is a life-changing gate to *Kan Hai Chewit* or to give another life. Married couples tend to have kids and legally register their marriage for state recognition and support. Parenting is a legal mandate for married parents to raise a child in the best environment possible. It is an investment with high return in Thai and other developing societies where family dependence is systematically established. The social welfare system in Thailand is so insufficient that family becomes a promising shelter at one's old age. It is Thai social expectation that aging parents are rewarded with the cares when their kids grow older. Legal status of marriage recognizing parents in the light of this logic can then be relevant.

Heteronormativity

Gender norms own a category because the language of marriage in Thai context is gender specific. Thai marriage is tied with the dichotomy of Pua/Mia (husband and wife), Por/Mae (father and mother) and (Look Chai/Look Sao) son and daughter. For this reason, heterosexuality-based marriage has been taken to a higher level of heteronormativity, encircling the assignment of family and marital roles based on gender. It would be an underestimation to claim that the effects result in personal level because the inescapable outcomes on society are effectuated. Marriage therefore is known to be an oppressing institution, first of women and then of persons with nonconforming SOGIESC. Gender neutrality is believed to be a cultivation of equality in a marriage.

4.2 Influences on Thai Marriage Discourse

Foucauldian queer theory analyzes that discourses are objectively codified. This section is an analysis of a deeper layer of marriage discourse, looking at the 2 key

driving forces that constructs and carves the Thai discourse of marriage: 1) modernization and 2) assimilation of diverse cultures.

4.3.1 Modernization on Thai Family and Marriage Legislations

Legislation is a formal form of state regulations on the behaviors of its citizens. Thai marriage and family laws underwent modernization processes since the reign of His Majesty King Prajadhipok of the Chakri dynasty. The interaction with Western nations led to the signing of friendship and commerce treaties, which allowed exchanged trading of goods, ideas and values. Modernization became an appealing agenda in early 20th century. Modernization not only changed the way of living, but also paved the way for milestone economic, social and cultural reforms. This section specifically refers to the 1932 Revolution to scope down a discussion when Book 5 and 6, family and marriage laws, in the Civil Code were reformed following the impact of modernity. Monogamy was enforced with a purpose to modernize Thai society and administration. Tamara Loos' *Subject Siam: Family, Law and Colonial Modernity in Thailand* explored that the chapters on marriage laws in the Civil Code were the last to be approved due to the controversial debate of legal replacement of polygyny with monogamy. Although the *one-husband-one-wife* marriage became the only form of state recognition, it does not guarantee the substantial changes of marital behaviors. Only 15 marriages were registered in a district of Bangkok with a total population of 58,400 in 1936. (Loos, 2005) This proved that legal registration could be one of the controversial characteristics of marriage in Thailand. The changes in marriage laws leave rooms and loopholes for flexible practice of polygyny to continue. Marriage and family laws have never been reformed again since then.

Western ideologies and perspectives of ideal marriage continue to influence Thai society, agenda of civil society and governmental authorities and the decisions of lawmakers. The factor that drives reform in marriage of this contemporary time is gender and sexuality. Marriage equality earns its place in the modern global

development agenda because of its close association with other promoted values and principles in late 20th century, such as universal human rights, nondiscrimination and LGBTI rights. An equal access to legal registration of marriage is also an indicator of the development of a country for many Western societies that make it a cultural imposition on the others. The perception of marriage has been changing. The roles of UN agencies in Thailand also help strengthen the capacity of CSOs through financial funding and technical supports. The improvement of information technology enables local and international advocates to network, collaborate and share knowledge and best practices. The desire to modernize resumes as key motivation to reform marriage. This helps explain why the drafting of civil partnership bill took place under General Prayuth Chan-O-Cha's soft authoritarian regime even though it is not the project initiated by his administration. Advancing national marriage laws to legally recognize *same-sex* partnership was a strategic move away from political turmoils, fragmented society and international condemnns. Marriage equality represents the agenda of modernity and social development of the 21st century.

4.3.2 Assimilation of Diverse Cultures

Thai marriage is *hybridized*. The local elements are mixed with the others. The cultures that have predominantly influenced Thai marriage are Chinese and Western.

Chinese Influences on Thai Marriage

Through trades and migrations, Chinese began to influence Siam from the Kingdom of Sukhothai onward. Like several other nations in Southeast Asian region, a large number of Thai people are of Chinese descents, residing in all regions of the country. The cultural legacy of China on Siam or Thailand affects the marriage. Thai and Chinese rituals share common characteristics. Superstition is an element that makes Thai and Chinese marriage traditions. Auspicious days or hours in which the marriage

customs take place are considered one of the significant components contributing to the success of union. The roles of matchmakers remain a practice of today. Patrilocality also came from Chinese tradition. Honoring the senior relatives and parents and allowing them to take part in the planing of marriage have been parts of Thai and Chinese's values of marriage from generation to generation. Bride price also defines marriage in Thai and Chinese cultures. Although a number of arranged marriage has greatly reduced, it continues for some traditional families in China and Thailand.

Western Influences on Thai Marriage

The influences of the Western world on Thai culture began with revolutionary introduction and implementation of modernization, industrialization, capitalism, democracy, educational reforms, scientific rationality and liberal principles. Thai modernity greatly owes it to the West. Industrial Revolution in Thailand changed the way of people's living, thinking and behaving, as well as political perspectives and standpoints on particular issues. The highest objective of capitalism is the production of wealth, which affects beyond the economic dynamics of a country. Thai women were encouraged to perform at workplace to earn (dual) income as a financial contribution to families, by this means, the public attitudes of the roles of women changed and on individual level it is an empowerment. Household authorities became more egalitarian. This was complimented by the democratization in Thailand. Reforms were legal tools to advance the deprived rights of certain groups of people. Western curriculum provided a direction for education reforms in Thailand, there were also students who were educated abroad and returned as rulers. Science becomes a method of rationalizing. Traditional customs were challenged and consequently compromised. Western societies also heavily promote the principles, such as universal human rights, liberalism, socialism, individualism that transform the outlook of Thai society. All of which women and other gender identities can relate to and lay as themes of advocacy.

Western ideologies help shape the discourse of Thai marriage. In general, independence and self-reliance are in the psyche of Western being. There is less involvement of parents in a business and decision making of an individual. Mutual love takes over arranged marriage. Monogamy protected by law is one of the centerpieces. The system of legal registration has been encouraged. Other types of legal recognition of relationship are explored. Divorce is the key concern for countries such as America, but to some extent, the views on divorce like marriage have become liberalized. Interracial marriage earns more social acceptance. Marriage has been put on a pace of liberalism. The legalization of opening marriage becomes an agenda shared by international community, including the modern Thailand.



Chapter 5

Result Part 2: The Proposal of Civil Partnership Bill

This chapter explores the proposal of Thai civil partnership bill. It looks at other legal approaches that recognize non-heterosexual relationship and scopes down to why the civil partnership bill was selected as an appropriate approach. The history of drafting, from civil society initiative to governmental agenda, is presented in the next section. Key actors in the proposal are identified, including the drafters, influencers and collaborators. What have been changed and proposed in the bill and the reasons are also documented. In the last two sections, this thesis collates the criticisms of civil partnership bill, as well as the defenses from state. All of these information are important when analyzing the rhetoric of the movement and discourses that have been reproduced within the bill.

5.1 Achieving Marriage Equality Through Civil Partnership

Marriage is a legal institution that is associated with society, inequality and discrimination. Marriage has been heteronormatively framed as a union of one man and one woman. Non-heterosexual couples inevitably face double gender discrimination in the area of marriage and family. The movement of marriage equality, also referred as same-sex or gay marriage, has been cultivated from Western LGBT rights activism in the second half of 20th century. As human rights grow into dominant disciplining discourse, anti-homosexual laws fall into the category of, if not gross, violation and some have been repealed. This is how homosexual rights first gain public recognition in human rights discourse. Douglas Sanders explains in his *Recognition of Same-Sex Couples in Asia* (Sanders, 2018a) why legal recognition is worth advocating for. Marriage offers a package of rights, is a demand that anyone can understand and relate to, demonstrates that homosexual persons have good lives and seek better ones. As Sanders explains, the development of LGBTI rights starts with campaigns for decriminalization, then moves to calls for protection from discrimination, particularly

in employment, and now the dominant issue is legal recognition of same-sex relationships. The movement moves from negative to positive demands that put homosexuals in heterosexual mainstream of living. This has been very successful in changing the image of homosexuals from marginalized individuals, to loving families deserving of rights and recognition. Legal recognition of non-heterosexual relationships can be achieved through several legal approaches, including the followings (Merin, 2010):

- (a) 'Do it yourself' arrangement
- (b) Legal recognition of cohabitation
- (c) Registration systems
- (d) Marriage

a. *'Do It Yourself' Arrangement*

This option is based on each partner's specific needs and wills instead of the generally enforced laws, hence also known as *customization*. Existing legal arrangements are referred to secure some marriage-like rights. The will specifies beneficiary status of each partner, which will be signed by a power of an attorney, authorizing another partner to make financial decisions in case of incapacity. Particular jurisdictions allow partners to have joint bank accounts and properties in both names. There are some limitations what customization can protect. For example, rights that involve custody, adoption, hospital or prison visitation or medical authorizations due to the lack legal of kinship. Customization is legal in all countries, but may require the assistance of an attorney. In Cambodia, the Declaration of Family Relationship (DoFR) proposed by the Rainbow Community Kampuchea (RoCK) (2018) was designed to facilitate customization. The NGO provided a pre-drafted document that substitutes a legal will and presence and power of attorney. The purposes are with respect to the rights to property and child care.



Figure 4: Three Cambodian LGBT Couples Signed the Declaration of Family Relationship

(Source: <http://www.rockcambodia.org/?page=detail&ctype=article&id=322&lg=en>)

b. *Legal Recognition of Cohabitation*

Cohabitation is when persons, who are involved in romantic and/or sexual relationship, live together with neither legal formalization nor legal agreement nor legal recognition involved. Even though living together may entail some legal obligations, such as paying rents. This kind of relationship however sparks a discussion of possible granting of certain rights and obligations. There is no single pattern for laws that give legal recognition to cohabitation or to same-sex cohabitation. However, some jurisdictions, such as the Netherlands and Australia, recognize cohabitation with their general family, but not separate, laws. In Southeast Asian region, the cohabitation

model was proposed by the Vietnamese Ministry of Justice for issues of property and custody of children, however it has never been enacted. (Sanders, 2018b)

c. *Registration Systems*

The registration systems, which legally recognize the relationship of non-heterosexual couples, are exemplified with different names by ‘civil unions’, ‘registered partnerships’, ‘life partnerships’, ‘reciprocal beneficiaries’ and ‘civil solidarity pacts’. (Sanders, 2018a) These legal registration systems are separate from legal marriage system. It is necessary that individuals give consent and register with state authorities. Registration systems are tailored by different jurisdictions, having no single pattern of rights and obligations. They offer a wide range and length of legal protection from almost like full marriage to the least of few rights for registered partners. Denmark pioneered the civil registration system, also known as ‘registered partnership’, where only the rights to adopt and marry in state church are excluded. Civil partnership, is a slightly lighter model of legal recognition, but in some cases can be parallel to, than marriage rights. It was developed in Europe during the 1980s as a compromise for LGBT communities who were deprived of marriage and family rights. They started in Denmark and the Netherlands. Civil partnership recognizes registered couples as legal *partners*. The rights that a civil partnership protects are the ones that have been approved when enacted. Another version of registration system is the French Civil Solidarity Pacts (*Pacte Civil De Solidarité*) introduced in 1999. It is a formally legal, yet simultaneously the simplest and weakest with the least amount of rights compared to the others of the Westerns’. It simply requires a letter to be sent to the court for formal record-keeping and a joint life will then be recognized. While certain rights such as joint tax are protected, the others such as inheritance and adoption are not granted under this type of model. The RLPD announcing that it would follow this French model implies that the most limited one is its approach.

d. *Marriage*

Marriage, also understood as same-sex marriage and marriage equality, is a recognized union through legal registration under national marriage law with state authorities. The Netherlands is the first country to legalize same-sex marriage in 2001. The registered individuals will be recognized, granted legal benefits and assigned with obligations as *spouses*. The gender-sensitive and gender-neutral amendment to traditional marriage law paves the way for opening marriage to be effective. In Thailand, amending its CCC would open the regular marriage laws to protect non-heterosexual couples, like over other 25 countries.



Figure 5: Amsterdam Gay Pride 2019

(Source: <https://www.hellotravel.com/events/amsterdam-gay-pride>)

A lesser legal registration of civil partnership is a selected model system to be enacted for Thai LGBTI couples, leading to a high volume of criticisms that question

the effectiveness and commitment of Thai government on marriage equality. It will be elaborated in the next sections of this chapter.

5.2 Marriage Equality in the Agenda of Thai Government

The current leading governmental agency that took initiative towards legal recognition is the RLPD operating under the Ministry of Justice. Even though the Ministry of Interior is usually in charge of all forms of registration, the department was perceived as a more suitable agency to carry out such human-rights based project. (Chaiyajit, May 14, 2019) The Director of International Human Rights Division in the RLPD, Nareeluc Pairchaiyapoom, claims that it is the “*most LGBT-friendly*” department among the other Thai authorities. (February 28, 2019)



Figure 6: A Committee Meeting on Civil Partnership Draft on December 18, 2018

(Source: <https://www.moj.go.th/view/25328>)

In public presentation, Nareeluc often mentions the National Human Rights Plans (NHRP) drafted by her department. The administration of Prayuth Chan-O-Cha decided to endorse the plan to try to lessen criticisms on human rights. The rights of persons with diverse or nonconforming SOGIESC have been ensured in the plans from the third one and continues to the fourth. The rights to marry and form a family are not specified in the NHRP whose introductory sections refer to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Those provisions have not been applied to same-sex couples. Although the NHRP may give some support as a leverage, it does not ensure the success of marriage equality agenda. Although with no legal weight, the NHRP is an official platform for the RLPD's mandates and committed aspirational goals to be presented with identified framework, strategy and timeline to other governmental authorities that are expected to incorporate with the plans.

This section synthesizes and presents the timeline of marriage equality movement in Thailand from origin to present. An academic collection of Douglas Sanders on legal recognition in Thailand, along with an interview with Nada Chaiyajit, an independent human rights and LGBTI activist who collaborated with the state in drafting civil partnership, walked the author through how the agenda of marriage equality became active. (Chaiyajit, May 14, 2019; Sanders, 2018a, 2018b, 2019)

The incident that invoked the whole movement and legislative drafting can be dated back to August 2012. Natee Theerarojanapong and his partner were denied an access to marriage registration by Chiang Mai district, claiming on the legal ground that marriage in Thailand can only be registered by a man and a woman.



Figure 7: Natee at Chiang Mai Mueang District Office (August 9, 2012)

(Source: <http://www.komchadluek.net/news/politic/137304>)

Natee argued that the refusal is unconstitutional in violation of Article 30 of the 2010 Constitution that protects equal rights from gender-based discrimination. As a response, he went to the Administrative Court of Thailand, but the decision was not in favor of his petition. The effort however continued, he petitioned to the National Human Rights Commissioner (NHRC) of Thailand where the formal complaint was taken. Natee asked that the Commission send the issue to the Constitutional Court but instead Dr. Tairjing Siripanich of the NHRC, who took the complaint to the Committee on Legal Affairs, Justice and Human Rights of the Thai Parliament, outlined three alternative ways of proceeding suggesting the drafting of a separate bill. A parliamentary drafting committee was formed to draft a civil union. Wirat Kalayasiri, a legal expert and an elected member of the Democrat Party, then in opposition, oversaw the drafting. 3 representatives from LGBTI activist communities were named to participate in the committee who also expressed their concerns on the draft. During the committee hearing, it was pointed out that the neglect of adoption and custody rights leaves a huge flaw on the bill. When the drafting began in 2013, there was no shown support from neither government agencies nor political parties. The bill was not completed because a required step where other government agencies vet the draft was not fulfilled in time.

There are a number of Thai laws regarding marriage and family that have to be studied in order to introduce a new registration system of legal recognition of non-heterosexual relationship. A comparative study of these laws was conducted after the first drafting period stalled, some rethinking was seen to be necessary to help explain how other jurisdictions deal with associated problems. The consultation was provided by the United Nations Development Programme of Thailand. The national consultant was Akawat Laowonsiri—a lecturer in law at the Faculty of Law, Thammasat University. The author interviewed him on May 10, 2019. Akawat was one among the 30 legal experts in the working committee to draft the bill. He conducted a comparative legal study under the timeframe of only 10 months with a purpose to propose a model that works best for Thailand. Akawat prioritized the legal innovative content, not so much on how it could easily be enacted at the time he was designing the model in 2017. Starting with a very limited law and adding more on later was never his plan. He came up with about 100 sections thoroughly written in an over-200-page consultation report submitted to the MOJ. The report has no open access for the public. The deliverable of this urgent project is originally a Life Partnership Registration Act, rooting from German language of *Eingetragene Lebenspartnerschaft*. He took the best characteristics of legal recognition and family laws of 24 studied countries from all global regions and generated a new Thai one. A number of legal innovations were proposed in the legal registration model. For example, he avoided the gender specific term of ‘same-sex’ and instead preferred the language of gender neutrality so that other persons with alternatives self-identified gender are counted in the bill. The act also adds a *safeguard clause* to ensure nondiscrimination in family and other aspects of lives. Akawat provided an explanation of why he thought that amending the CCC is an ineffective strategy. The Civil Code contains a lot of loopholes under marriage and family laws. Traditional rules and standards of marriage survive in the Code. Economic abuse based on gender inequality can be identified but the Civil Code provisions are not adequate to respond to such problems. Consequently, a separate act became the plan. He stressed that it is not a discriminative approach because what it offers provides better and wider protection to non-heterosexual persons than the Code does. This

highly-developed model was supposed to be a legal experiment of which in the future heterosexual couples could get the benefits. Despite its promising features, the act was greatly compromised in the subsequent drafting work of the RLPD practice. Akawat expressed the struggles working with Thai governmental authorities. Presenting the innovative ideas to the Special Committee that consists of senior government officials, the Council of State and decision makers was no hope. They lack the understanding and will to establish such understanding. Questions were not asked and Akawat shared that this is because they would struggle to defend their own arguments. The working group also had to speak their political language in order to stay on the same page. The advised model was perceived as radical because it could challenge and deconstruct certain values in the CCC, work more superiorly than the CCC or could lead to the amendment of CCC. The Code is not flexible to changes and criticisms. He was advised not to directly or indirectly get involved with it. Consequently, the innovations that were proposed were disregarded. Only 1 – 2 elements were picked out and included in the actual proposed bill. The section 3(2) of the proposed bill, the definition of partners, Section 11 and some on inheritance rights are kept, the rest is retrieved from the Code. The template of the act also resembles the Civil Code. Contradicting his original plan, the proposed civil partnership bill became a separative and discriminative act.

In early 2014, the Foundation for Sexual Orientation and Gender Identity Rights and Justice (FORSOGI) became a leading coalition to draft a civil society version of the civil partnership with a support from the Law Reform Commission of Thailand. (Raksayu, May 19, 2019) The draft was not complete for a quite similar reason as the parliamentary version. The initiatives towards legal recognition of same-sex relationship, both by state and civil society, would be suspended for some time when political turmoil led to a dissolved legislature and military ruling in February 2014. In 2014, Kerdchoke Kasemwongjit of the department and Wirat Kalayasiri spoke of same-sex couples getting all the rights and obligations of marriage. However, when the bill became financial-transaction-based as the first step to the final goal of opening marriage, Akawat's comparative study has been misrepresented by the RLPD. He is all-in for the package of marriage and rights combining the best characteristics of

studied countries into one new legislation. When the RLPD shifted the strategy, the same comparative study is referred as if it supports the limited step-by-step bill like France, Germany, the UK to justify its proposal of unequal registration system. This is why the report remains internal.

The advocacy for legal recognition would be further inspired of strategy and pushed to public consciousness by a lawsuit for a custody of Baby Carmen. The case of Baby Carmen is a springboard for the drafting of legal recognition through registrations or marriage. Gordon Lake and Spaniard Manuel Santos, a gay couple, were denied the custody of a surrogate baby, Carmen, by the Thai woman who carried her. She delivered a baby and decided to keep her. This incident transformed into a custody lawsuit against the surrogate mother. Petition was sent to the Ministry of Social Development and Human Security. On international coverage, there was a heavy pressure from the international communities. An insider shared that the judges of this case were carefully selected and ensured that the decision was favorable to the gay couple. As a result, the custody was granted to the fathers by the Juvenile and Family Court granted legal custody. Thai LGBTI activists, including Nada, took part in this case and realized that the pattern of fighting can be as well adopted in the marriage equality agenda. This case projects the positive gender-normative image of same-sex couples forming an ideal modern family.



Figure 8: Gordon and Manuel with Baby Carmen after Legal Custodial Victory
 (Source: <https://coconuts.co/bangkok/features/foreign-same-sex-couple-says-fight-bring-carmen-home-biggest-challenge-their-lives/>)

In 2016, a campaign on Change.org collected over 60,000 signatures from members of the public who are in support of the drafting, which grants legal recognition. This claimed representation legitimized the second attempt of the RLPD, in collaboration with some LGBTI organizations and independent advocate, to draft another civil union bill. The working group of drafting was introduced to the public, including politicians, diplomats, academia, international communities and media in the event of IDAHOT 2017 in Bangkok. The draft is referred as *Ampawa* model. Ampawa was the city in which the drafting committee meeting took place, hence the name. The roles of civil society organizations in drafting the bill will be elaborated in later sections.



Figure 9: The International Day Against Homophobia, Transphobia & Biphobia Event on May 17, 2017

(Source: National Human Rights Commission Thailand)

Below is the table that collates key events that make up marriage equality sociopolitical movement in Thailand, leading up to the proposal of civil partnership bill in December 2018.

Year	Action	Leading Actor/Agency	Details
August, 2012	Marriage license issuance was refused in Chiang Mai.	Natee Theerarojanapon g, Thai gay activist	A formal complaint was sent to the National Human Rights Commission of Thailand (NHRC) so that it can be

			proceeded to the Constitutional Court.
2012	The complaint was taken to the Committee on Legal Affairs, Justice and Human Rights of the Thai parliament, instead of the Constitutional Court.	Dr. Tairjing Siripanich, Commissioner at NHRC of Thailand	Siripanich supported the initiative.
2013	Parliamentary committee was formed to draft a civil union.	Parliamentary Drafting Committee	Wirat Kalayasiri, a legal expert, was in charge of the drafting of civil union draft. 3 representatives from LGBTI communities have also been named to participate in the committee.
April, 2013	The parliamentary draft bill received a great deal of criticisms at the first legislative committee hearing.	Parliamentary Drafting Committee	While supports were demonstrated by agencies such as UNDP and NHRC, the absence of adoption and custody rights were presented as great concerns. The amendment of Civil Code was also proposed in the hearing.

2013	Consultation was provided to the Rights and Liberties Protection Department.	UNDP Thailand	Akawat Laowonsiri—a lecturer in law at the Faculty of Law, proposed an innovative model as guidance for the drafting committee.
2013	Drafting process of civil union bill began.	RLPD with LGBTI organizations and advocates	The bill was not completed because a required step where other government agencies vet the draft was not fulfilled in time.
Early 2014	Civil society version of civil partnership was drafted.	Foundation for Sexual Orientation and Gender Identity Rights and Justice, the Law Reform Commission	This draft is a civil society initiative. FORSOGI is a leading coalition with a support from the Law Reform Commission of Thailand. The draft was not complete for a quite similar reason as the parliamentary version.
February, 2014	Civil partnership initiatives were put on hold.	Military coup of 2014	Political turmoil led to dissolved legislature. FORSOGI refused to operate this initiative under military ruling.

2014	RLPD changed strategy to achieve the legal registration system.	Kerdchoke Kasemwongjit of RLPD	A new draft will be financial transaction based as the first step to the final goal of opening marriage. This is to avoid backlashes from opposing groups and review of a number of supplementary laws.
2016	60,000 signatures were collected.	RLPD with LGBTI organizations and advocates	The collection took place on change.org. This is a claimed representation of the people, which legitimized the legislation drafting initiative.
2017	The second draft, Ampawa model, was released.	RLPD with LGBTI organizations and advocates	-
November, 2018	The third draft of civil partnership was released.	RLPD with LGBTI organizations and advocates	This draft underwent public consultation. Although the hearing was heavy of criticisms, the majority of participants voted in favor of the draft. Few amendments were made as the revised draft would be proposed to the legislature.

Table 4: Timeline Leading Up to the Proposal of Civil Partnership Bill

5.3 The Proposed Civil Partnership Bill

Thailand's national marriage laws have never been reformed since the Civil Code was enforced into effect. This civil partnership bill, the fourth draft of RLPD, was proposed to the Cabinet by Nongporn Roongpetchwong, the Deputy Director-General of the RLPD on the morning of November 29, 2018.

5.3.1 Why Was the Bill Proposed?

The front page of the draft provides a clear statement of why the bill is drafted and proposed. The first claimed reason is the deprivation of marriage and family rights of marginalized groups based on gender and sexuality. It is considered an unjust discrimination. The principles of equality, people's participation and inclusion must also be conformed in the pursuit of marriage equality. State has obligations to protect their rights and failure to do so is a violation of human rights, going against the values protected in the Civil Code, Constitution and other international instruments that Thailand has ratified.

5.3.2 How Are 'Partners' Defined?

Thai Civil Code grants marriage and family rights to heterosexual *spouses*. It must be noted that *partners*, as this bill will recognize, are not entitled to the same set of rights because the registration follows the regulations of different and separate laws. The definition of partners is significant to focus because it sets the legal criteria of eligibility of who has the rights to register for state recognition of relationship. Thai laws are not familiar with the legal term '*partners*', therefore the process of defining it has undergone its own evolution. From the first to original third bills drafted by the

RLPD, *partners* are defined as “two persons of same-sex who register a partnership according to this act”. In the proposed bill, Section 3, Paragraph 2, provides a clear and final definition of *partners*, which are “two persons who are not able to exercise their right to legally register a marriage in the Civil and Commercial Code on the basis of gender of any party and who then register according to this act”. (RLPD, 2018) Although Thai marriage and family laws have been heteronormatively gender-specific, gender-neutral language is adopted in this bill for wider inclusion.

5.3.3 What Are the Protected Rights?

The fourth civil partnership draft of the RLPD is an amended version of the third one after the public hearing of the bill. The public hearing was conducted in all regions of Thailand in the key provinces, namely Bangkok and Ayutthaya in the Central region, Chiang Mai in Northern region, Songkla in Southern region and Khon Kaen in Northeastern region. (RLPD, 2019) The majority of participants were government officials and civil servants, while others were from private sectors, civil society, diplomats and academia. The summary of the hearing (2019) reports that 89.86% of the participants, as well as 97.9% of online attendees, voted in favor of the proposal of the draft. The effectiveness of the public hearings to conclude public opinion however should be taken into account skeptically. There were originally 4 authorities in charge of implementing this act. However, with a purpose to reduce problems in coordination, only the Ministry of Justice, Ministry of Interior and Ministry of Foreign Affairs are the relevant governmental authorities that will act to enforce ministerial regulations. The fourth draft consists of 6 Chapters and 44 Sections in total, being reduced from 7 Chapters and 70 Sections in the third draft.

Chapter	Content	Sections
I	The Registration of Partnership	5 - 20

II	The Relationship Between Partners	21 - 24
III	Property Rights	25
IV	The Termination of Partnership	26 - 41
V	Inheritance Rights	42 - 43
VI	Prescription	44

Table 5: Content of the Proposed Draft

The effects of the act can be understood by the rights it protects. Civil partnership varies from country to country. The rights that it will grant are the ones included in the proposed draft and ones that are approved. This proposed bill protects 2 main marriage and family rights, which are property rights and inheritance rights.

Property Rights

Property rights in the proposed bill own a sole Section in Chapter 3. Section 25 states that the rights regarding property for registered partners are exactly taken from the Book 5, Chapter 4 of the Civil and Commercial Code. (RLPD, 2018) The property management regulations that are conformed by heterosexual spouses apply to the legal partners. Previous drafts have shown that property rights were specifically proposed for partners.

Inheritance Rights

Inheritance rights in the bill have total 2 Sections in Chapter 5. Quite similar to Section 25 of the property rights, Section 42 of the inheritance chapter states that regulations on inheritance in the Book 6 of Civil and Commercial Code applies to both married spouses and legal partners. (RLPD, 2018) Section 43 ensures that an alive

partner is a statutory heir to inherit just like the spouses under the protection of Section 1635 of the Civil Code.

The key reasons to explain why property and inheritance are the focused rights are shared by Nareeluc Pairchaiyapoom, in the interview that the author conducted as a part of Being LGBTI in Asia's initiative to profile key figures in Thai LGBTI communities. (Pairchaiyapoom, February 26, 2018) Nareeluc gave the account that one of the key challenges that the department faced was to make the importance of the development of LGBTI friendly policies, in this case the drafting of civil partnership bill, recognizable among the governmental authorities. It is an ongoing process to coordinate the relevant authorities and systemize the areas of focus for each. Although the department aims to achieve the equal access to the registration of marriage, the vision had to be compromised with the main concerns from other authorities. There are the two main concerns for this initiative. The first one is the conflict of interest among religious communities on the basis of one hearing in Songkla, especially in Southern part of Thailand where the practice of Islam is prominent. Southern region has shown the lowest support of the drafting. The second group that had to be taken into account when planning and implementing the initiative is those who hold conservative attitudes towards social movement towards non-heterosexual marriage. Both concerns are not only of the members of the general public but also government officials and civil servants who will enforce this law. For this project to succeed, it needs to first be approved by the government and of an appropriate amount of budget. As a result, the bill strategically prioritizes property and inheritance management for a start, making it a less controversial and towards a more successful legislative draft. In the meantime, the awareness raising campaigns and activities have been organized consistently so that the best results are produced.

5.3.4 Where Is the Bill Now?

The bill was proposed in November 2018 to the Cabinet. It has not and never been proposed to the National Legislative Assembly. Akekawat Pimsawan was one of the key organizers of the 10th Anniversary event taking place at Chulalongkorn University on November 29, 2018 to annually celebrate the LGBTIQ+ movements in Thailand. (Pimsawan, May 7, 2019) The theme of year 2018 was on the equal marriage and family rights. He shared that on the same day of the proposal to the Cabinet, the network of Thai civil society organizations, independent activists and members of affected communities collectively submitted an open letter countering the state draft of civil partnership directly to the RLPD, as well as the US embassy in Bangkok. The document lists the key concerns and reasons why the enactment process should be terminated. Despite this document, the Cabinet approved the bill in December 2018. It was then sent to the Council of State in February 2019. It consists of 10 persons in the committee whose responsibility is to vet the draft bill. The process of vetting takes approximately 3 months. On February 28, 2019, the OUTBKK hosted an event entitled *Civil Partnership and Same-sex Marriage in Thailand: Potential Implications for Business and Workplace*. Nareeluc Pairchaiyapoom was one of the speakers, introducing the civil partnership bill to the public. She started off with what are included in the bill, the background of drafting and moved on to what are excluded out of it. The highlight of her presentation was a confident expression that the next government will not “drop” this bill and that it “will pass for sure”. The reason to justify this confidence is the positive tones of responses from the public.



Figure 10: Representatives from 10 Political Parties in Discussion of Thai Marriage Equality on November 29, 2018

(Source: <https://dmcpost.blogspot.com/2018/12/10-lgbt.html>)

5.4 How Inclusive v Inclusive How?

5.4.1 Government *Guaranteed* Inclusion

Although the RLPD gets criticized on the transparency of the drafting process, the lack of united civil society support for the step-by-step strategy and the limitations of rights, this section balances the arguments with the positive tone of state effort. The leading agency guaranteed inclusive participation through various initiatives. (Pairchaiyapoom, February 26, 2018) Public forums had been held so that productive discussion could flow with ideas and concerns. The department sent invitations to key civil society organizations and advocates working on the relevant topics. International

and local NGOs, CSOs, legal advisors, government officials and intended beneficiaries were included in the process, claimed by Nareeluc. She added that this project could not succeed without consistent awareness raising campaigns and activities with the public, as well as the collaboration with the civil society. Sharing the same goal, the department exchanges expert knowledge, advices, best practices and supports with partnered local and international organizations. In this section, the voices of civil society organizations and advocates who played roles in collaboratively drafting the civil partnership bill will also be represented.

Preparation

Danny Kittinun Daramadhaj of the Rainbow Sky Association of Thailand commented at the British Ambassador Residence Bangkok on March 4, 2019. The event was hosted for LGBTI advocates and community to discuss about marriage equality movement in Thailand. Danny expressed how important it is for the civil society to have strategies of implementation and collaboration with state planned ahead. Challenges and obstacles must be foreseen and managed so that the results are best produced. First of all, the project of drafting civil partnership bill needs to be in parallel with public education on both gender and human rights. Secondly, the civil society must be clear about which agency has the authority to pass the bill. Currently, the average age of the decision makers in the Council of State is 70, who are less likely to understand the situations of the intended beneficiaries. It must be clear for the CSOs to know exactly how to convince them. The last point that Danny made was that a political union with strong connection with the civil society also has to be established at the same time. This is because politicians or political parties can push forward the initiative to the senators, which strengthens and increases the likelihood of the legalization. These recommended strategies indicate that he supports the RLPD's step-by-step approach and simultaneously critiques the limitation of rights in the bill. At the public hearing of the soon-to-be-proposed draft, he publicly and on a record criticized on the latter.

What Was It Like?

Nada Chaiyajit, an independent human rights activist in Thailand, was one of the key representatives of Thai civil society and LGBTI communities who took part in drafting the bill. (Chaiyajit, May 14, 2019) She pointed that in order to succeed collaborating with the state, strategy is mandatory. The highest goal that all parties aim to achieve is the amendment of the Civil Code and drafting a civil partnership bill is a strategy. This is in the way that the discussion on the amendment is a leverage to put pressure on making the best version of civil partnership possible. If Thai civil society negotiates with state authorities with civil partnership as an end goal, it will be further compromised to something less valuable. Instead, in the future, the implementation of civil partnership will be formally documented and challenged it in the Constitutional Court. This strategy should lead to a more equal marriage in the CCC. The constitutional provision could recall the Gender Equality Act of 2015 that ensures nondiscrimination and equality for people with diverse SOGI to point out that the civil partnership act brings no equal rights. Nada implies that the act allows people to see a clearer vision of marriage inequality and discriminatory law, which fails to deliver full equality. This thesis invites to note that the court has no record of supporting cases involving human rights and equality.

จุฬาลงกรณ์มหาวิทยาลัย
CHULALONGKORN UNIVERSITY

Nada's role enabled her to realize the struggles of state movement within the Thai government system. She wished that the efforts of the RLPD in this initiative be appreciated. The department works in frustration. Although with a mindset to expand human rights, they receive criticisms from those who were unaware of the political context that challenges their operations, works and original decisions. The department dedicates to propose the best model they could, knowing what is best for the affected communities. But at the end, with human rights projects being perceives as idealistic in Thailand, the less becomes the better. It would be empathetic to understand that as an intermediary, the department stands between the civil society and/or advocates who can be highly critical and the high-ranked governmental officials who can be demanding

and close-minded yet powerful. The influx of criticisms is thrown at the representative of this project.

Inclusive participation has its own limitation. It is true that the department holds 100% authority to decide who and invite whoever to participate in the planning and drafting. It is not possible for any governmental agency to work closely with the whole civil society, even though it might be stated and promised in their agenda. First of all, CSOs and NGOs who represent LGBTI communities throughout Thailand have loud voices. In this project in particular, there are CSOs that declared not to collaborate with the government agency, believing that the promotion and protection of democratic values cannot succeed under authoritarian regime. This leads to the criticism on the process of drafting the bill. Holding a responsibility of a duty bearer, the department had to be selective of the inclusive participation so that outcomes, which benefit the rights holders, are ensured and produced.

Struggles

Development is the vision that all parties held. The irony however is that Thai state authorities in general are reluctant to change. The traditions or their representations are loyally conserved. Civil Code has been resisted changes. Senior officials reminded the drafting committee that the historical status of the Civil Code has to be respected. It should not have been an idea in the first place. Nada highlighted that it is the prejudice and attitudes of the power holders and some politicians that the civil society should be worried about, rather than Thai Muslim and Christian communities. (Chaiyajit, May 14, 2019) The Controller General's Department is a governmental agency that controls the government spending. Its concern was expressed that the equal access to marriage registration and rights could increase state spending so it blocked inclusion of employee spousal benefits in the draft bill. The Revenue Department also raised that one of the benefits of the legalization of non- heterosexual marriage is the

reduction of tax, hence the decrease in government revenues. There are also politicians who vocally promote marriage equality during the election campaigns and puts on hold the agenda once in the office.

5.4.2 Excluded Voice of Civil Society

Inclusion costs exclusion, which can be from both outside and inside. The homonormativity underlines this contentious exclusion, arguing that certain values are expected from certain intersectional groups of homosexuals and advocates. This section of the thesis echoes the represented voice of civil society organizations that has been excluded from the state process of drafting the civil partnership bill. Chumaporn Taengkliang, a core member of Together for Equity and Actions (TEA) Group and a representative of the Samanchon Party (Commoner Party), gave the account of exclusive participation of the proposal. (Taengkliang, May 10, 2019) Her party is formed by the core values of grassroots democracy, human rights and equal justice. She raised that marriage equality law is closely connected with civil rights and therefore should be initiated by the affected persons or at least the civil society that acts on their interest, rather than by bureaucratic ministerial authorities. The period from November 2018 until February 2019 revealed that a number of Thai political parties support the movement of legal registration for LGBTI couples. Also supported by previous research and people-centered and people-oriented activities, it is indicated that the act can be accepted by Thai society, which has been underestimated by Thai authorities. Chumaporn explained that she was invited to the early discussion forums by the RLPD where she expressed on behalf of the intended beneficiaries that the legislation should come out of inclusive process and bring out the equal rights and that civil partnership merely serves as a secondary class arrangement, which goes against the values and mission of the department. She commented that amending Civil Code has been their promised goal but turned out to be a responsibility that it decided not to take. It is pointed out that TEA Group wrote in the Universal Periodic Review about equal marriage law and the department distorted the narrative by carrying out merely some selected concerns. The language of discrimination used by other authorities is defended

by the department, leading to the development that is “*shameful and backward*” and the violation of rights in disguise. It is the people that the department should protect, not the Ministry of Finance for example. Her honest comments were formally noted but ignored in practice. Her foundation was never again invited to the advisory drafting committee. The criticisms on the bill is heavy, yet uncalled for. The evidence is that the abandoning of drafting an unpopular bill has not been considered. Chumaporn added that the enactment is not the end but the beginning of formal close-eye evaluation that will be operated by the civil society and association of political parties.

FORSOGI

The civil society organization that played standalone roles in advancing marriage rights is FORSOGI whose mission is to advance SOGI rights through legislative changes. FORSOGI drafted a civil partnership bill separately from state. Chantalak Raksayu, one in the working group, is the key informant of this section. (Raksayu, May 19, 2019) The civil society drafting of the bill commenced in 2013 after Natee was refused an issuance of marriage license. At the time, there was no dedicated study on marriage equality and Civil Code amendment was understood to be an infeasibly idealistic approach and imperfect due to its existing flaws. The organization of activities have been countless and consistent where awareness raising campaigns and discussion forums are held. FORSOGI drafting committee applied key 8 principles to the bill:

Number	Principle	Description
1	Gender neutrality	The bill should indicate no specific gender, implying that anyone including heterosexual couples could also access to this type of legal registration.

2	Facilitation to non-Thai partner	The marriage license should facilitate the application for residence visa or Thai citizenship of the non-Thai partner.
3	No regulations of proposal	Unlike the marriage laws in the CCC, there should be no regulations on the proposal.
4	The relationship of partners	The relationship should be treated on the basis of respect and dignity as humans. Non-traditional practices should be allowed and protected by laws.
5	Management of assets	The assets should be divided into 2 category: 1) ones before the partnership registration and 2) ones that are joint after the partnership registration. It should be agreed by the couple prior to the registration.
6	Termination of partnership	The termination should be on the basis of voluntary agreement. There should be no fault base on particular partner in case of lawsuit for termination.
7	Right to adoption	Persons who register the partnership should be able to adopt a child legally.
8	Rights to access spousal benefits	The registered partners should be able to access the same rights and benefits provided by the Civil Code.

Table 6: Principles of Civil Society Draft of Civil Partnership

This project was funded by the Thai Health Promotion Foundation under the Ministry of Public Health and advised by the Law Reform Commission. The drafting however was terminated due to the replacement of military ruling. Drafting assistance came from

the Law Reform Commission of Thailand, a government agency set up to assist citizen initiative drafting processes. The Law Reform Commission ceased to function during the military government.

Chantalak explained that the working mechanisms of state and civil society are not on the same page for a number of reasons, hence separate drafts. FORSOGI was never engaged with or by the department. The British Embassy Bangkok that has funded Thai LGBTI CSOs through Magna Carta Funds also holds the same understanding. Margaret Tongue, the Deputy Head of Mission at the Embassy stated in an opening speech on March 4, 2019 at the *Establishing a Thai LGBTIQ Unity and Collaboration Mechanism (UCM) to Overcome Marginalization and Discrimination* event that policymaking through civil society has proven to be “*better, more responsive, inclusive and effective*”. Like other CSOs, FORSOGI is all ears to criticisms, concerns and feedbacks received from relevant partners, authorities as well as people of the communities. The differences can be seen when compared civil society draft to the state one, which contains discriminative components. After the state bill was proposed, FORSOGI revised the options they have for further adjustment and development and decided to go for the Civil Code amendment strategy.

1448 For All

จุฬาลงกรณ์มหาวิทยาลัย
CHULALONGKORN UNIVERSITY

1448 For All is a newly established inclusive working group in 2018 on the issue marriage equality in Thailand. The information in this section is shared by Akekawat Pimsawan, a representative of the group. Its highest objective is to amend marriage laws in the Civil Code for marriage equality. (Pimsawan, May 7, 2019) The group consists of members who share the same vision and passion in marriage equality, inclusively inviting representatives from CSOs, independent activists, academia, politicians, diplomats and media to take part in the initiative from the very beginning who became the network. Although there is neither paid staffs nor office, the strengths

of this group include clear identified goals and planned strategies, individuals with specialized skill set, extensive network, support from and of the communities and active empowered youths. The group is open and accessible, all of the minutes of meetings are publicly shared. The inclusion of the public and greater civil society is claimed to be genuinely un-staged. The needs of affected communities are prioritized. Strong foundation of justice and equality are built, even though they require long term dedication. The group has organized and collaborated on a number of events to raise awareness of issues, exchanges knowledge and best practices and advocate for Civil Code amendment. The first and historical event for Thai LGBTI communities was on November 29, 2019 where politicians of 10 parties were in the same room with the civil society, media, academia, diplomats, LGBTI persons discussing legal approaches and commitment to marriage equality. The organization took only a few weeks but led to a rarely successful phenomena of global civil society.



Figure 11: Launch Event of 1448 For All in February 2019

(Source: 1448 For All)

5.5 Criticisms

After the proposal of Thai civil partnership bill, it is depicted by media and academic worlds that criticisms have followed the tail of the bill and that concerns are raised. This section of the thesis manifests key 6 analyses, arguing against the approach to marriage equality of the RLPD, as follows:

The Civil Partnership Bill Does Not Result In Marriage Equality

Let this argument starts with a reminder that marriage equality is the aim of this whole initiated agenda. The civil partnership bill does not result in the access to equal marriage rights. The important measure to evaluate the success of the bill is to look at the rights it intends to protect. A number of Western civil partnerships resemble their national marriage laws. This is because the only key difference between the two approaches is the legal status. The rights regarding property and inheritance management are the only two set of rights this bill sets out to protect. Chawinroj Terapachalaphon (2017), an attorney at law, categorized repeatedly-encountered problems of Thai LGBTI communities into the main 8 areas, in the table below:

No.	Areas of Problems	Protection by Civil Partnership Bill
1	Medical decision-making and funeral arrangement	YES (Newly-added)
2	Adoption, custody, guardianship	NO
3	Inheritance	YES

4	Transaction, contract, joint debt management	NO
5	Access to martial spousal benefits	NO
6	Property	YES
7	Acceptance and honor with the status of spouses by law	NO
8	Access to marital laws by all persons with diverse sexual orientation, gender identity and expression and sex characteristics	YES

Table 7: Areas of Legal Challenges

It is evident that there are a number of areas of problems resulted from the lack of legal recognition that are left unaddressed by the proposed bill. A legal act of equity should have been more thoroughly considered. For example, in case of adoption, people of diverse or same sex gender identity and sexual orientation do not have natural capacity to reproduce, therefore adoption laws should be tailored and appropriately applied to meet the needs of the couples. While the step-by-step approach has been given justifications, it must be reminded that the excluded rights are the driving motivation of this initiative to begin with. It is consensual to agree that this civil partnership bill is a property management contract, rather than an equivalent alternative to marriage, let alone marriage equality. The equal access to the legal registration of marriage is also lost during the process of proposing this bill. The legal eligible age for persons to register a partnership proposed in this bill is 20, while heterosexual couples become eligible at the age of 17. It is also mentioned in the proposed bill that the legal registration of partnership takes place at state-designated districts, originally it was meant to be only at the government center in Nonthaburi. The civil partnership bill also refuses to recognize registered partnership outside of Thailand.

The Civil Partnership Bill Is Discriminative

Amending Section 1448, the national marriage law, of the Civil and Commercial Code with gender neutral language will pave the way for marriage equality and automatically cast on effects on the other 60 sections under marriage and family laws. (Terapachalaphon, 2017) If this proposed civil partnership bill is enacted, it becomes a separate act—the second or additional national marriage law. The key question to raise is whether or not it is a solution to the problem of marriage inequality. People in the same society having different standards of legal protection is discriminative. At the same time, heterosexual couples cannot access the system of registered partnership, continuing gender-based inequality. It is not an inclusive act for all but the selected few. Rather than solving the challenges, civil partnership bill symbolically tolerates what state aimed to tackle. Practicing the same law with the same benefits is an honoring of human dignity.

The Civil Partnership Bill Is A Compromise

Civil partnership is the European invention of the 80s. The system of registered partnership for same-sex couple was first enforced in Denmark 1989. (Sanders, 2019) In Western countries, the rights it protects are almost as the same as the registration of marriage. Originally, with a different legal status granted, it was a legal tool standing between the legal recognition and no legal recognition of same-sex relationship when the anti-LGBTI sentiment dominated, hence its compromising feature of more limited rights. Partnership is a less strict form of legal recognition than marriage, it was more likely to be accepted back then. Thai civil partnership is substantially and symbolically weaker than civil partnership elsewhere. The two main concerns that led to the compromise of this bill are religious and conservative groups. However, religious part of Thailand does not equate to an outstanding opposition. It is actually a compromise with the closes-minded but powerful state authorities. A greater concern lays within a family and the marriage law can shape this attitude and cultivate acceptance. Violation of the rights for marginalized groups is not the argument that conservative groups are pushing forward per se. Additionally, the global community has significantly changed

in favor of human rights protection and uncompromised protection. Yet, this is what the bill is compromising i.e. Article 16 in the Universal Declaration of Human Rights on the right to marry and form a family and more in the international legal instruments ratified by Thailand. The government has vowed to incorporate with the National Human Rights Plan, this civil partnership bill proves otherwise.

The Civil Partnership Bill Is a Result of Misunderstood Discourse

It is understood among the governmental authorities that enacting a separate act of civil partnership takes less time and has a higher chance of passing than amending the national Civil Code that is perceived as a part of Thai history. This is a misunderstanding that formulates into a part of the discourse of Thai marriage equality. The initiative of civil partnership takes 5 years so far and results in 2 rights. Amending the Civil Code actually requires the same process as passing a bill, only with different content of request and will achieve all equal rights existed in the Code. (Terapachalaphon, 2017) The decision is also made by the same parliamentary committee or legislative assembly. What needs to be revised by the state is that law should not be seen as easy or difficult but prioritize the matter in it. Government authorities should not go for an easy but the right task. Civil Code is undoubtedly sacred but it should be in a way to protect the people not itself from changing.

The Civil Partnership Bill Intentionally Neglects the Structural Problem of the Country

Marriage inequality on the basis of gender is a product of structural problem. Where the solution lies has to be fundamental and interconnected with other existing principles. Civil partnership is a remedy, not solution. It does not prevent but practice legal discrimination, deepening this structural problem. Challenging opposing standpoint of other authorities and the public is a great part of the RLPD's job

description in this project of marriage equality but has not yet happened. Marriage rights do not empower the Thai great LGBTI communities. Policy is a tool and what comes with it is an awareness. Without a doubt, it takes times but it needs to be established.

The Process of Drafting and Proposing Civil Partnership Bill Was Exclusively Inclusive

One of the issues that emerged out of the drafting process identified in section 4 of this chapter is the practical and effective inclusion of the civil society. The process was strategically inclusive with exclusive manners. The benefits of having inclusive participation of the people is that one gets to work with arguments and counterarguments, leading to productive results. It comes to realization that the civil society who represents the interest of the people may not be on the same page and that one voice is as important to another whether or not it goes with the ideas, vision and pattern of state activism. Taking notes and reflecting on them are two very different and separate processes. The criticisms have been vocal on a national and international scale, yet the response is reflected disproportionately. The RLPD was selective of whom to collaborate with and are willing to negotiate with state in order to smoothly push the project forward.

5.6 In Defense of State

The RLPD sits in no silence as a response. Some of the criticisms have been accounted for through personal communication with the author, as well as parts of relevant public events and presentations.

The RLPD believes that gradual development of marriage equality is an effective pathway for Thailand. Nareeluc exemplified the case of the UK, where she was educated for higher education. UK civil partnership was introduced by the Labour Party and supported by other political parties such as Conservative Party. It became enacted in 2004, followed by the legalization of same-sex marriage in 2014. It was argued that Thailand has taken the first step of the ladder and it will eventually lead up to marriage equality. It is believed to be “*better than nothing*”.

Civil partnership marks a promising start for Thai political environment where turmoil and instability coexist. Civil partnership is a quick response to an ongoing criticism that Thailand’s ‘*Gay Paradise*’ is claimed without legal protection to support. Unilateral parliamentary committee under authoritarian regime allows a bill to be considered without an opposition, explaining the rush the bill was in.

Not everything is up to the department. RLPD has to work and collaborate with other authorities and partners where the rights have been negotiated along the way. The authorities that they had to work with approve the budget, which the project cannot succeed without. For example, a study of comparative laws had to be conducted because Thai government concerned that the change could affect other supplementary laws. Nareeluc explained the struggles working with the Ministry of Finance that it can take 3 to 4 years to be funded. It requires a lot of information and statistics that the department did not have. The department had to manage the conflict of interest of several authorities and members of the public. The rights that have been excluded are ones considered as the progresses for the future. The amendment of the Civil Code is an unpopular option among senior legal officials. Time is an essential component to understand how Thai government works. The department stressed that amending the Civil Code for marriage equality remains the end goal and guaranteed that it will happen in the next 2 to 4 years after the enactment of civil partnership.

The inclusion of civil society also extends to the members of the public. The contribution of ideas from all sectors were welcomed. The department conducted a survey and research in all 5 regions throughout Thailand. The participatory approach and equal selection of target groups were ensured.

The positive light of the civil partnership can be appreciated. It helps raise the visibility of marriage equality and other rights for marginalized and discriminated persons with non-heterosexual identity and orientation in Thailand from more of stirred discussion and criticisms. It also brings more stakeholders on board with the agenda, such as businesses on wedding ceremony.

No.	Criticisms	Defense
1	No equal marriage rights	Gradual improvement
2	No equal access to the resignation of partnership for both heterosexuals and homosexuals	Better than nothing
3	Discriminative use of separate act instead of existing law	Higher chance of passing
4	Compromise with human rights violation	In exchange for approval of other authorities
5	Civil Code amendment as a more effective and timely approach	Civil Code is historic and to amend it is unpopular among decision makers
6	Priority of the possibility of passing, rather than the matter of the law	Increased visibility of marriage equality and LGBTI rights from criticisms

7	Challenge the challenges to solve structural problem	Equal open marriage in 2 to 4 years
8	Exclusively inclusive participation	Inclusion of some CSOs and members of the public from 5 regions

Table 8: State Defense on Criticisms of Civil Partnership Bill



Chapter 6

Analysis of Key Findings

The aim of this chapter is to critically analyze the key findings of previous two chapters on Thai marriage discourse and the proposal of civil partnership bill. This is to form theses that explain how state-dominated discourse of marriage negatively impacts or limits the proposal of the civil partnership bill and why it should be interpreted as a new (form of) inequality. New inequality is conceptualized when the surface of equality leads to questionable outcomes of equality because the old pattern of inequality is repeated in a new form. Humans are born equally different in flesh but socially-constructed norms of state further differentiate us as unequal from the very beginning. The functions, purposes and ideals of marriage institution are respectively built, performed and changed by the pragmatic wills of state. The proposed civil partnership bill epitomizes a product of Thai marriage discourse that has been scrutinized by power holders with changed and conserved values. Intertextually overseen, lawmakers are the authors of national norms and state authorities are ones to constructively narrate them as objective knowledge.

Thesis 1: Civil partnership, a registration system for legal recognition, is a tool of the state to control behaviors, influence decisions of its citizens and discipline relationships

Politics is an effective tool to enforce norms, values and changes, influencing and driving discourses. (Foucault, 1978) Public attitudes are shaped by politicized discourses, institutions and reforms of marriage. The institution of marriage has been politicized through several mechanisms, namely the production of knowledge, promotion of values and legalization, flowing different interest into one. Marriage changes and shapes behaviors that should ideally be predictable so that state can run smoothly and productively. (Duangwiset, October 30, 2019) For example, married couples consume more when they have kids and purchase debt-required items that give

them the sense of stability. It is the rulers and lawmakers of the country that finalize the legal definition of marriage. State sets boundary on what to do and not to do in marriage through legal regulations and requirements. The values that are transformed into laws derive from multi-layered debates from different governmental authorities with different angles of interests. The subjectively-defined morality, which gives the background to legal literature on marriage, adheres to the ideology of preferentialism where '*normal*' is classified as '*acceptable*' and '*abnormal*' as '*undesirable*'.

Whether or not legal registration fundamentally aims to benefit the people or the system itself is a controversial debate. However, personal decisions and civil obedience being outlined by disguised standards, legalized responsibilities and imposed obligations have been proven. Discourses that people follow make it possible for the power holders to do so. The proposed civil partnership bill indicates what state sees as important for its citizens and simultaneously influences what the citizens see as important. The bill is based on regulations that meet certain sociocultural expectations instead of rights and needs. In order to be legally recognized by state, ones are expected to act in ways that benefit state. If enacted, even with merely 2 financial-focused rights, Thai state earns the points on modern development on regional and international stages. To actually get benefits from this civil partnership, partners would have to own properties to pass on to begin with. Civil partnership makes no differences for LGBTI non-property-owner couples. RLPD's justifications for step-by-step approach imply that state is willing to prolong the advancement of rights when it comes to the marginalized communities. Consequently, the greater Thai society would tolerate this excuse and in this light the civil partnership does not empower the marginalized community.

Legal recognition gives state the power to decide who can build a legal and what kind of family and when to have how many children. Family and marriage are related to other aspects of lives both for a person and state who gets to hold the influence and control over the rounded life aspects. Marriage is efficient for state to control because

it opens a gate to family as the first authority for individuals. Looking at an economic side, civil partnership makes Thai capitalism prosper. (Duangwiset, October 30, 2019) Family not only consumes more than an individual does but also produce more consumers. Marriage brings economic comfort. It is cheaper to cohabit and more possible to depend on the ‘*other half*’ instead of government welfare. The advocacy of marriage equality can dictate what human wants in life, what is mandatory and basic to spend on. (Duangwiset, October 30, 2019) After all, Thai authority is willing to grant just asset management rights in this civil partnership. On social aspect, legal marriage is a civilized, organized and responsible lifestyle, allowing government to keep human nature and desires, could lead to instability, under control with a deal of rights. (Duangwiset, October 30, 2019) State politically institutionalizes marriage into a public sphere for these reasons. Towards the same direction, knowledge, laws and desires feed into state power. It explains why the influence of non-state actors over marriage equality movement threatens to take partial control over state’s tool and discourses, hence the state-dominated version of the draft under legislative consideration. In other words, government needs to control the discourse in order to remain in control and serve their interests.

Thai laws and culture are hybridized of the locals and foreign influences. Marriage discourse is a process of adding in and leaving out values to make a new purposeful tradition. In the 21st century, Thailand revises its common practice of marriage without legal registration and criticizes it with the proposal of civil partnership. The bill is supposed to make legal marriage union easier to enter where, for example by the use of discourse, bride price has been waived and tray of gifts transform into a proposal on one knee. (Sukhlabhkitch, 2014) Marriage equality movement blinds people to believe that personal decisions are individualized when they are underlined by state. Thai traditional non-legally binding marriage gives state no legal control over the marital lives. State cannot control social marriage but socializing the legal tool can be a solution for state. Civil partnership makes Thai marriage less social and more legal. With the RLPD as a leading agency and rights grantor, it is the others that shapes but state that approves and finalizes the discourses of marriage and

marriage equality in Thailand at the end of the day. People do not just respect the laws but those who utilized behind them. The proposed civil partnership sustains the inequality codified in the marriage discourse of Thai authorities.

Thesis 2: State-orchestrated civil partnership is based on the interest of state that sustains the inequality in legal marriage

Marriage equality is a significant discourse project of the state. It would theoretically be ideal that state stands behind all procedures to control and monitor the narratives. This civil partnership sustains state as the most powerful and influential actor of the whole movement. The inclusion of non-state actors is staged to praise the state performance. Once proposed, people no longer have a say of the bill. Worse, people who need equality may be part of the decision-making but not the determination of decided outcomes. At the end of the day, it is the state who drafts, promotes, proposes, vets, amends, enacts and enforces it, based on the assumption that they know what is best for all. Consequently, ‘*good*’ and ‘*equal*’ are by the standards certified by state. It also indicates that legal innovative advices, assisted consultancy, efforts from authorities and non-authorities and public consultations, which state of higher power but lower level of specialized knowledge disapproves and could lead to a better version of equality, have been disregarded for the sake of discourse and power. (Laowonsiri, May 10, 2019) Marriage equality may not be the interest of the state as a whole therefore planned equality in the hands of government is not granted equality for all.

Civil partnership bill responds to state’s interest. The bill is a rushed effort to enhance the image of modern Thailand, which follows the book of international values. The RLPD promised that since Thailand is ‘*defeated*’ by Taiwan as the first country in Asia to legally recognize same-sex relationship, it would make as the first in Southeast Asia. (Pairchaiyapoom, February 26, 2018) This proves state’s interest over statist theme of the international community. While it makes Thai authorities look competent, good and revolutionary towards human rights in the international eyes, it is not the

point, certainly not the goal, because equality has not been an ensured priority. The public awareness is indoctrinated with a state-narrated memory of the new '*marriage equality*'. The proposal of civil partnership is not only a bureaucratic compromise but also a pink-washing strategy of state where LGBTI rights are promoted to obscure its political repression in international arena.

Civil partnership adapts the ideology that has underlined the principle of inequality and therefore creates inequality in legal marriage. It is the old wine of inequality repackaged in a new bottle labeled with equality. Development is in the desire of the Thai government. However, in practice, reluctance that bars tangible changes comes from several sources, among which is its own ideology. Conservative and conventional principles are sustained in the Thai legal and political system to somehow benefit those in power. The Council of State, appointed by King Chulalongkorn (Rama V) with a responsibility to advise state on the bill (Sanders, 2019), explained why the Civil Code amendment of national marriage and its supplementary laws would be a rare success because the '*sacred*' code is to be followed not amended regardless its detected discrimination. (Laowonsiri, May 10, 2019) No further elaboration was not offered on this note. In fact, the historic Code is *curated* as if it were sacred and the special treatment of it is unjustified. The word '*sacred*' has been misused by the RLPD because there is no religious connotation attached and the Code is just conservatively sensitive to changes. Also, Thai marriage customs and laws in the CCC have dedicated focus on money and assets, this derives from the example of customary marriage tradition of Plook Ruen Hor and the civil partnership reproduces this feature. The great challenges of legal reforms are imposed by the state itself. The authorities had to twist the promise of marriage equality with the civil partnership because the Code is threatened. It should have been *sacred* in its capacity and dignity to protect the people, rather than protect itself from changing. This logic sustains marriage inequality because it refuses to move on from obvious discrimination. Thai government starts with a big vision of marriage equality but ends its activism that cling on to the hundred-year-old clustered flaws in the Code in the newly-proposed bill. The subsidiary marriage act that fails to meet its own objectives is believed to be the

appropriate solution. State authorities undertake a sluggish pace on the changes and amendments supplicated by the people. This is a Thai legal tradition that even other state authorities are unable to resist and negotiate. The leading agency has fought little by little.

The ruled is actually more resilient than the ruler but is used to justify state decisions and its worship of bureaucracy. The initiative of marriage equality proves that state learns and reflects on no lessons in the changing of social norms. The department bows to the old system, telling the marginalized minorities to live with inequality for longer as the helps come *'step-by-step'*. The Good Cop, Bad Cop show performed collaboratively by the department and other authorities only reminds us that the same old deep-structure problems are not to be overruled. State can only hear its own discourse, putting blames on the others and demonstrating exquisite gestures hopefully for a change.

Thesis 3: Civil partnership augments state's monopolized power over marriage discourse

This civil partnership did the opposite of challenging Thai traditional marriage discourse—for better and for worse. State monopolizes discourses to stay in charge of governing and serving the interest of the country. Shall the discourse be changed state authorizes them. State facilitates the formulation of family through marriage discourse more powerfully and effectively than we understand. Reported by Thairath in 2012, a marriage promotion organization, emerged within the Ministry of Public Health in 1943, was an epitome. Thai leader at the time, Marshal Plaek Phibunsongkram, realized that population growth was necessary to build Siam into a powerful nation and consequently the organization disseminated a marriage guideline that encouraged Thai nationals to get married, form a family and produce preferably 4 children. During his administration, governmental hours stopped on Wednesday afternoon so that officers could meet up and spend time together. Other key events, such as group marriage, were

also organized. Financial was a factor that bar people from getting married or have wedding ceremony, leading to the deconstruction or exemption of traditional custom of bride price in Thai society. (Yodhong, 2017) The promotion of population growth could almost be counted as propaganda where films, radio, music, newspaper, even academic works were aligned. This effective procedural and thorough system of state was so successful that the growth increased by 3% per year. This marriage discourse would change drastically and again successfully when depopulation was desired by Thai state over the concerns of postwar overpopulation in 1970s. Campaigns such as *Luk Mak, Yak Jon* (Many Kids, Poverty) were so effective and widespread in public consciousness that the birth rate went back to 1% per year ("Phro Chomphon Po Thae Thae 70 Pi Yang Kae Pan Ha Mai Tok (เพราะจอมพลป.แท้ๆ 70 ปี ยิ่งแก้ปัญหาล้มลุก)," 2012) explaining why currently a club of elders dominates the Parliament. Thai state can succeed in anything genuinely invested in their interests and that social attitudes are upon its will and power.

Legal registration system of civil partnership shapes the discourse of Thai marriage to become a more formal and legal form. State can control it with the power of lawmaking that also control cultural dynamic of marriage. For the bill to likely pass, it respects, speaks the same political language of state and aligns with state standards. (Laowonsiri, May 10, 2019) The impression is measured by state rather than the people. The RLDP works in frustration, as Nada suggested in the interview, because of this logic and we can only imagine the worse for non-state actors in the movement. It must be understood how the achievement of marriage equality practically benefits the nation, hence state activism. Marriage equality is a universal discourse—the more universal, the more effective it is. It also guarantees that state can manage the change. Good image for nation building will be earned when marriage discourse is updated with a less essentialist language. If Thailand can afford to advocate for the set of privileged rights, the implication is that other areas for the affected communities are worry-free. Again, state can monopolize power of marriage for use, playing a role in people's relationship and for it to happen civil partnership must serve such discourse. Thai civil partnership

repeats state discourse of Thai marriage and reminds us how powerful the authorities are.

Enactment is a legal victory of advocacy. Equal access to legal registration, extending gender spectrum within state recognition, does not guarantee a start of marriage equality. It is not a more inclusive but wider legitimacy. Civil partnership may solve the problems for selected LGBTIs but not the problems faced by LGBTIs in Thai society. Michael Warner stresses in his *Normal and Normaller: Beyond Gay Marriage* (1999) that gay marriage should not be prioritized over other “*serious issue that threatens only to get worse*”. The victory of marriage equality clouds other issues in other aspects of lives of the marginalized, such as discrimination, unemployment, hate crimes, violence on the basis of gender. Marriage is mostly a concern for those who are already socially and financially stable. Kristina Wolff (2017) suggests that capacity approach leads to more long lasting, inclusive and effective social changes than the right-based one. People should capacity to decide what is important for them and to demand for it. It would be beneficial for society and future rights advocacy. It is doubted that the legalization of gay marriage helps reduce social stigma and discrimination and brings out cultural shift and social justice as it claims to do. Civil partnership is the updated version of marriage discourse that neither addresses the mentioned daily and intersectional struggles nor produces any of the significant and substantive results but feed state with power over the discourse.

Government is risk adverse, it gives the weakest registration system like in France, Germany and the UK so that their power and discourses can be assessed and managed. State authorities know little about the lifestyle and needs but make decisions for these marginalized people, making marriage equality a parliamentary controversy and civil partnership ineffective. Marriage equality does not harm Thai society, so this is the deal between state and affected individuals. The best that state can give cannot be compared to what they can take. Civil partnership can be easily named an asset management act. Two set of equal rights to inefficiently form a family in exchange for

power over knowledge, discourse and followers to its normalized standards for more than one generation is grossly underpriced.

Thai marriage without legal registration has been *equal* in the way that government cannot legally interfere but without civil partnership, state cannot regulate same-sex relationships. A law becomes a scripture because it is used to guild governance on particular matter. State control LGBTI couples with the civil partnership act.

The advocacy and movement of legal registration actually make Thai marriage less equal due to increased governmental and legal interference and restrictions over individual freedom. Individuals become an identity part of society to fit into politics. Civil partnership compromises the need of affected community and the efforts of civil society with the interest of state. The desire for legal registration system makes state even more powerful. Marriage equality, in the name of civil partnership, successfully created the needs that were not needed. A personally defined successful relationship would not be completely official until state recognizes it. It is this demand that unconsciously legitimizes state recognition and its power over us. Because of this, in the long run and it works as we speak, the nonconformists, activists, civil society are being disempowered and cursed on the endless road of advocacy. Opening marriage becomes a new demand because we are made less fulfilled without it, as the discourse resonates we are in the hands of state.

A glimpse or sound of marriage equality can empower state in so many ways. LGBTI rights are used to achieve personal success for Thai politics who grants the legal rights. Civil partnership is a fine product of state activism. It transforms society into a new phase but under the same structured norms of its marriage discourse, which will remain its heroic tool until the next one comes.

Thesis 4: Civil partnership produces a new chapter of Thai marriage discourse that is an ideal trap

Civil partnership is promoted as a precious legal effort of the state, aiming at ideal outcomes. On the surface, with civil partnership, Thailand champions in the area of legal registration system in the region. But when dived into details, we misunderstand the discourse that overestimates the capacity of the proposed bill. There are other approaches that state could embark on for higher equality. The problems however are not with these legal systems but the Thai bureaucratic government who compromises the needs of the intended beneficiaries and even its own initial objectives.

In this context, ideal *trap* implies the situation where ones are made to believe that something is ideal when it may not be and locks them up in the same unrecognized cycle. Thai marriage is not only filled with auspicious traditions, but also propitiously full of ideals that are influenced by state-enforced norms, ensuring that family is patterned with ability to meet ideal social expectations. (Duangwises, October 30, 2019) In Thailand, marriage equality is a modern symbol of ideal that comes with untold costs. Idealization makes legal recognition an offer rather than a choice, assisted by the amplification of media, popular cultures, international communities, development agencies and wedding industry.

Civil partnership also reads normalized and standardized script of happiness and goodness, pitching to sell the legal recognition to Thai non-heterosexual couples in modern era. Both marriage discourse and the bill help state promote an idealistic image of successful marriage, healthy family and civilized citizens to produce visualized results that are ‘*good*’ for society. (Duangwises, October 30, 2019) Even if the Civil Code was amended, it would mean that the affected communities are *equally* suppressed and regulated by state to be *ideally good*. The fact that legal marriage can have difficult, subordinate and regulatory side effects has been unrevealed to the mainstream understanding. The idealization of heteronormative monogamy, for

example, is for state to suppress desires and regulate freedom from its people. State works collaboratively with the international discourses of equal human rights. They use moral frameworks to stabilize, develop and dominate society, producing new forms of justice and simultaneously reproducing new forms of injustice in the area of marriage. Siding marginalized groups with idealized agenda gives them high hope and desire for something impractical, such as equality. Civil partnership is a wise way out to compromise with this challenge. Reflecting on the institution, state must amplify the ideals in civil partnership so that its disadvantages remain unnoticed and scot free.

Civil partnership is a discourse-driven reproduction of Thai traditional marriage values that are not in the league of equality. It reproduces the gender binary of masculinity (for gay couples in particular) and femininity (for lesbian couples in particular). (Duangwises, October 30, 2019) Gender roles in family remain in existence. People have been introduced and regulated by laws in the name of characteristics of a proper love. The logic of capitalism leading to economic benefits is in the back of state's mind. (Duangwises, October 30, 2019) Monogamy must also apply to non-heterosexual couples. Social acceptance becomes a permission ticket before the two individuals unionize. The whole movement of marriage equality reflects on it. Discourses in the civil partnership is emphasized and accentuated in the regime of (hidden) knowledge that upholds the normative society. (Duangwises, October 30, 2019)

Equality is ideal and subjective in its definition and outcomes. Thai civil partnership makes it an ideal *trap*. The system is a gate to enter but what counts more is the rights inside. Equal access to legal registration is unequal until the rights provided by the compared system, which is marriage, can be accessed but marriage and partnership rights are differentiated to begin with. Having separates laws is stigmatizing. As a political strategy, state sells the civil partnership, rather than the rights. Partial inclusion is better than total exclusion. State does not criticize its own legal and social club of marriage, let alone warning its people of the side effects. Instead, it convinces that civil partnership is marriage equality. It is not. Civil

partnership sounds like a social status of legal victory. People with diverse SOGIESC genuinely believe that achieving marriage equality with the rights that are traditionally privileges for heterosexual couples counts them in the mainstream equality. This is the institutional guidance. Marginalized and advocates with genuine passion are forced to fight a more and longer battles and trapped in the institution of marriage, yearning for something that suppresses and problematizes them in the first place. Civil partnership, as a minion of marriage, expands to saves the institution evolving through modern temporal themes from criticisms and resistance by adding legislative features to enhance attraction. Thai state idealizes the civil partnership with its rights to property and inheritance to form a family, convincing that they are the most important rights to start. The facts that some individual rights are sacrificed to be entitled for the benefits and the obligations last even after divorce never make it to public understanding. It traps non-heterosexual couples and advocates all the way to the mainstream updated marriage discourse. This whole process will be repeated as new marginalized gender identities emerge.

Narratives are layered. Amplifying towards one particular direction is manipulation. Civil partnership sustains certain traditional norms with blank explanation. Government projects get usually criticized, state might as well announce clearly and transparently with the public about its strategy and struggles to marriage equality, not just to the insiders, interviewees and a few CSOs and NGOs. This shows no fear of bureaucracy, makes the claim of '*collaboration*' practically real and includes the people who will be deeply felt by the act.

Legal registration for state recognition has been synced with human rights principles, issues and projects of relevant authorities. Although the discourses of equal human rights become non-controversially dominant, it remains problematically contested. (Perugini & Gordon, 2015) The LGBTI rights v religious liberty argumentation has no stop when based on the principle of human rights. The rights then are trapped in the ideal world of discourse-driven development. Kristina Wolff (2017)

suggested that gaining an equal access to legal registration with state could make LGBTI more vulnerable to discrimination intensified by high-profile legislations. Civil partnership also does not address or even confront public oppositions that include the family. Additionally, the National Human Rights Plan is claimed by the RLPD a leverage for the civil society on state, this ensures that the civil partnership or any form of marriage equality that benefit and sustain state authorities in charge must be there no matter what. State is one step ahead.

The bill is discriminative and equality does not technically discriminate. Although the proposed civil partnership no longer use sex as a condition of legal registration, the records are recognized by the same Registry Office of Thailand but stored in different categories by different systems but under the same jurisdiction. It cannot be accessed by the heterosexuals, forcing citizens into a system designed for their gender under the same jurisdiction. The bill justifies the difference in legal age to register offensively based on gender and sexuality. Fundamentally, inequality and discrimination only cast effects when compared in society, which is also where legal registration and recognition is being advocated into. Civil partnership produces an internalized discrimination. Women tend to earn less than men, lesbians and transwomen therefore are less likely to get legally *partnered*, even though they can. Nonstandard homosexuals, such as ones who are mentally incapable, poor, polyamorous, prisoners, transgender people, undocumented migrants and divorcees, are excluded from this equality to a very great extent. In the light of this logic, the bill is not an ideally equal and empowering end goal for the whole LGBTI communities.

Thesis 5: Civil partnership is homonormative

Normalization is a process that keeps institutions and discourses alive. There is a strong connection between the state's practices of normalization and problematization and the self-others dichotomy of identity construction. (Hansen, 2013) The proposed civil partnership has been normalized by Thai marriage and equality discourses through

legal means. It is considered *normal* to register and formalize the relationship, to receive marriage and family benefits from state and to take emotional love to the level of commitment. Civil partnership that grows out of an oppressive institution is *made* wanted. Non-heterosexuals are made to believe that vulnerability is a result of absent legal recognition. The movement of marriage equality through civil partnership strengthens marriage discourse and institution that become the normal rest of lives.

Laws are officially enforced normativity. Marriage laws in the Civil Code are almost hundred years older than the society of today. Despite the realization, the two rights of properties and inheritance are duplicated from the Book 5 and 6 where desired values are honored and normalized. The norms ensure that marriage union is consented, strengthened, attracted and preserved. Public advocacy is necessary in these types of processes. Civil partnership also normalizes the lives of those registered partners. Civil partnership moves the registered non-heterosexual partners to the same mainstream and non-secondary box of '*normal*' as heterosexual couples. They are disciplined by state with the same rights, benefits, protections, obligations and expectations but this time with legal consequences, which lasts even after divorce. The rationality is that with laws they follow the same structured pattern of ideal family and marriage, form of love and commitment and consumption into their cognitive memories and practices.

จุฬาลงกรณ์มหาวิทยาลัย
CHULALONGKORN UNIVERSITY

Normalization must also keep up to modern reality. Civil partnership and movement of marriage equality in general sends across the message that traditional customs, ceremonies and social agreement are insufficiently formal and official until state recognition. The bill modernizes Thai marriage discourse. Enforced acts and laws are the faces of state, which should look modernized and developed. They distract the public from state's failures, mistakes and hidden agenda.

Civil partnership is claimed to be equal in marriage by state. But what or who is it equal to? Marriage equality is a battle fighting for the rights granted to

heterosexuals. The bill therefore is assumed to be equal to the one of heterosexual. Civil partnership can also be equal to other countries that enforce the similar kind of laws. Does LGBTI persons '*deserving the rights*' sounds familiar? It is the new normativity, known as *homonormativity* popularized by Michael Warner. (1999) Civil partnership makes LGBTI people who register their relationship and want family decent and *normal*. Homonormativity includes the language of abnormality and exclusion. All of the previous drafts of state were homonormatively gender-specific of homosexual. Avoiding the marginalized inclusion, *partners* became neutralized after consultation with the public, legal experts, academia and civil society. This vital change however does not make the homonormativity go away. Civil partnership counts non-heterosexuals into the hegemonic sexuality and love of state by shaping the rhetoric of love and marriage discourses. But normality comes with abnormality. In *Queer Betrayals* (2013), Jack Halberstam discussed the homo-normalization that results in the binary of the privileged and the underprivileged. Where there is homosexuality there is homophobia. This thesis agrees that while the '*we*' are normalized, the '*they*' are problematized. (Hansen, 2013) The dichotomy of identities is unavoidable. Gender in politics means differentiated and problematized diversity.

Lena Eckert (2016) introduced the concept of intersexualization. This is where state looks for scientific-based evidence of distinction in gendered society to pathologize individuals based on gender and discipline the normal. It started with men and women and now move up to the level of heterosexuality and homosexuality. The dangerous cost of promoting inclusion is it being exclusive in itself. The non-standards become automatic outcasts. This is to say that non-heterosexuals who fail to meet social expectations of normal or ideal family suffer an internalized phrase of discrimination, counted out of marriage and social normative standards. Marriage, a symbol of ideal, has direct impacts on the non-marrieds and non-standards—the secondary primary citizens whose lives with unregulated sexual relations and without official responsibilities are understood as undisciplined, unfulfilled and nonconforming. The problems of homonormativity is that they will stay at same spot but just different advocates and affected identities. Without them, '*ideal*' marriage would have nothing

to contrast and be defined. As exclusion of the unrepresented will always be there, equality is an almost impossible task.

Discourse has impact on knowledge, perspectives and direction of advocacy and activism. Non-state advocates should hold an awareness of discourse mechanisms as a power to better negotiate. Every piece of legislation opens a negotiation with the discourse. On policy level, civil partnership should challenge, not serve and be manipulated by it. On the individual level, one can live their lives to the fullest and in their perfectly ideal version with or without marriage by an awareness of discourse. Marriage will never be equal because it is supposed to be personal for individual, yet has been treated highly public and political. Because of it, gender and sexuality become real and real issues in the public eye. This thesis has high doubt how equality harmoniously coexists with the institution of marriage that is driven by inequality and suggests that state mechanisms in controlling its citizens and marriage through laws and policies, as well as non-state advocacy be made aware. Marriage is a life changing concern for some. Certain groups of people demand for what they need and that is what each individual should do—know what you want and exactly why in order to live with such inevitable discourse. While making discourse collapse seems *idealistic*, challenging it can be one way to disempower its power so ‘*they*’ know that ‘*we*’ know.

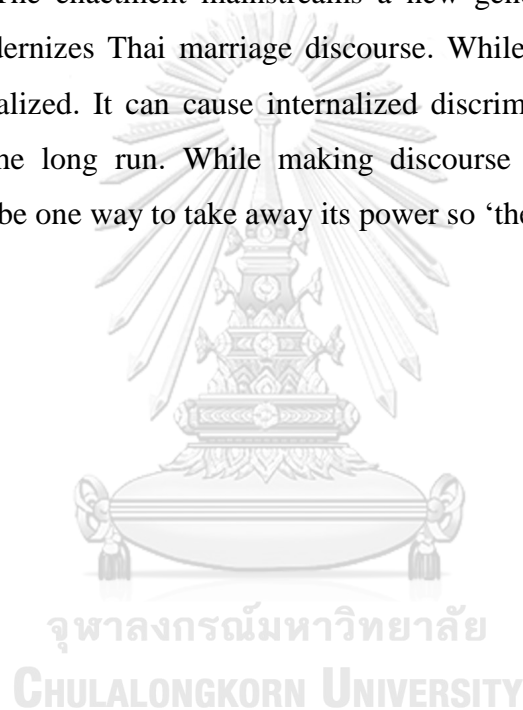
Conclusion

It is common in Thailand not to legally register with state for recognition, making the marriage non-legally binding. Sociocultural traditional and customary ceremony publically witnessed by close relatives and friends and/or member of communities is recognized as an official union of marriage. The rituals represent desired values and standards in Thai marriage and promote ideal family and marriage. One of the dangerous effects of the idealization is that (hetero)normative discourse dominates and excluded the non-standards. Thai marriage also evolves through the interaction with foreign influences. Towards a more inclusive and equal access to legal registration, marriage equality movement stands among Thai political activism.

Civil partnership is a model of legal registration system that Thailand is currently pursuing to advance equality in legal marriage. It is separated from the national legal marriage system and considered weak due to the limitation of granted rights, which are only property and inheritance. Although the civil society initiated the movement, the Rights and Liberties Protection Department is the leading governmental agency to draft the civil partnership bill. is Currently being vetted by the Council of State, the bill receives heavy critiques, especially when in comparison with Civil Code amendment that is believed to pave the way for more equal legal marriage. First of all, Thai civil partnership bill does not result in marriage equality. It is a discriminative compromise as a result of a misunderstood discourse. The proposal and drafting processes were also exclusive, neglecting the structural problem of the country. The government however defended all the claims.

The paradoxes of the discourse-influenced civil partnership bill sustain marriage inequality, explained by the 5 theses. Firstly, the legal registration of civil partnership is a tool of the state to control behaviors, influence decisions of its citizens and discipline relationship of citizens, establishing standards, regulations, expectations and responsibilities. Secondly, state-orchestrated civil partnership bill is based on the

interest of state that sustains the inequality in legal marriage. Marriage remains unequal because state refuses to move on with a more equal and solution-oriented actions. Thirdly, civil partnership bill augments state's monopolized power over marriage discourse. Personal decisions depend on whatever suit state authorities and permission. Fourthly, civil partnership produces a new chapter of Thai marriage discourse that is an ideal trap. It is overly supported by state, despite heavy public criticisms. The negative aspects of marriage institution trap the lives of registered couples without their recognition. Lastly, civil partnership bill is homonormative, making registered partners socially *normal*. The enactment mainstreams a new gender-based community into marriage and modernizes Thai marriage discourse. While one group is normalized, others are marginalized. It can cause internalized discrimination within the LGBTI communities in the long run. While making discourse collapse seems *idealistic*, challenging it can be one way to take away its power so 'they' know that 'we' know.



REFERENCES

- Badgett, M. L. (2009). *When gay people get married: What happens when societies legalize same-sex marriage*: New York University Press.
- Bornstein, K. (2010). An Open Letter to LGBT Leaders Who Are Pushing Marriage Equality. In R. Conrad (Ed.), *Against Equality: Queer Critiques of Gay Marriage*.
- Butler, J. (1990). Gender trouble, feminist theory, and psychoanalytic discourse. *Feminism/postmodernism*, 327.
- Chaisayan, N. (2015). *Kotmai Raprong Sathana Nai Kan Chai Chiwit Khu Ruam Kan Khong Klum Khon Thi Mi Phet Withi Baep Rak Phet Diaokan* (กฎหมายรับรองสถานะในการใช้ชีวิตคู่ร่วมกันของกลุ่มคนที่มีเพศวิถีแบบรักเพศเดียวกัน). National Institute of Development Administration Business School,
- Chaiyajit, N. (May 14, 2019). Personal communication.
- Daramadhaj, K. (March 4, 2019). Personal communication.
- Duangwises, N. (October 30, 2019). Personal communication.
- Eckert, L. (2016). Intersexualization and Queer-Anarchist Futures. *Queer Futures: Reconsidering Ethics, Activism, and the Political*.
- Eskridge, W. N., & Spedale, D. R. (2006). *Gay marriage: for better or for worse?: what we've learned from the evidence*: Oxford University Press.
- Foucault, M. (1978). *The History of Sexuality*, vol. 1, An Introduction, trans. Robert Hurley. *New York: Pantheon*.
- Fuss, D. (1991). *Inside/out: Lesbian theories, gay theories*: Routledge.
- Fuss, D. (1995). *Identification papers: Readings on psychoanalysis, sexuality, and culture*: Routledge.
- Halberstam, J. (1998). *Female masculinity*: Duke University Press.
- Halberstam, J. (2013). Queer Betrayals. *Queer Futures: Reconsidering Ethics, Activism, and the Political*, 177-189.
- Halperin, D. M. (2012). *How To Be Gay*: Harvard University Press.
- Hansen, L. (2013). *Security as practice: discourse analysis and the Bosnian war*: Routledge.
- Hohengarten, W. M. (1994). Same-Sex Marriage and the Right of Privacy. *The Yale Law Journal*, 103(6), 1495-1531.
- Jowett, A. (2014). 'But if you legalise same-sex marriage...': Arguments against marriage equality in the British press. *Feminism & Psychology*, 24(1), 37-55. doi:<https://doi.org/10.1177%2F0959353513510655>
- Kampuchea, R. C. (2018). Declaration of Family Relationship(DoFR) Ceremony. Retrieved from <http://www.rockcambodia.org/?page=detail&ctype=article&id=322&lg=en>
- Kamthong, N. (2003). *Kan Somrot Khong Phuak Rak Ruamphet* =. Thammasat University, Bangkok. Retrieved from <http://www.library.coj.go.th/Book/20292?c=1141723457>
- Kaufman, M. J., & Miles, K. (2010). Queer Kids of Queer Parents Against Gay Marriage. In R. Conrad (Ed.), *Against Equality: Queer Critiques of Gay Marriage*.
- Laowonsiri, A. (May 10, 2019). Personal communication.

- Loos, T. (2005). *Subject Siam: Family, Law, and Colonial Modernity in Thailand*: Cornell University Press.
- Marriage. (n.d.-a). In the Cambridge dictionary. Retrieved from <https://dictionary.cambridge.org/dictionary/english/marriage>
- Marriage. (n.d.-b). In the Collins dictionary. Retrieved from <https://www.collinsdictionary.com/dictionary/english/marriage>
- Marriage. (n.d.-c). In the Macmillan dictionary. Retrieved from <https://www.macmillandictionary.com/dictionary/british/marriage>
- Marriage. (n.d.-d). In the Oxford English Dictionary. Retrieved from <https://www.lexico.com/en/definition/marriage>
- Merin, Y. (2010). *Equality for same-sex couples: The legal recognition of gay partnerships in Europe and the United States*: University of Chicago Press.
- Na Songkla, R. (2017). *Equality in Marriage of Gender Diverse People in Thailand*. Paper presented at the Rabop Kotmai Thai Patirup Plianpan Patisangkhn (ระบบกฎหมายไทย : ปฏิรูป / เปลี่ยนผ่าน / ปฏิสังขรณ์). <http://www.law.cmu.ac.th/lasc/conference/wp-content/uploads/sites/2/2017/09/27/ริญญากัณฑ์.pdf>
- Nussbaum, M. C. (2010). A Right to Marry. *California Law Review*, 98(3). doi:<https://doi.org/10.15779/Z38SQ6D>
- Pairchaiyapoom, N. (February 26, 2018). Personal communication.
- Pairchaiyapoom, N. (February 28, 2019). Re: Civil Partnership and Same-sex Marriage in Thailand: Potential Implications for Business and Workplace
- Palazzani, L. (2012). From Gender to Queer. In *Gender in Philosophy and Law* (pp. 35-58): Springer.
- Panoon, P. (2016). Kan Kamnot Nayobai Kan Chotthabian Khu Chiwit Nai Prathet Thai (การกำหนดนโยบายการจดทะเบียนคู่วีชีวิตในประเทศไทย). 2(1). Retrieved from <http://journalgrad.ssru.ac.th/index.php/issue14/article/view/761>
- Perugini, N., & Gordon, N. (2015). The Human Right to Dominate. *Human Rights Law Review*, 16(2). doi:<https://doi.org/10.1093/hrlr/ngw009>
- Phro Chomphon Po Thae Thae 70 Pi Yang Kae Pan Ha Mai Tok (เพราะจอมพลป.แท้ๆ 70 ปี ยังแก้ปัญหาไม่ตก). (2012). *Thairath*. Retrieved from <https://www.thairath.co.th/content/287081>
- Pimsawan, A. (May 7, 2019). Personal communication.
- Rajadhon, P. A. (1969). *Prapheni Kiaokap Chiwit Kan Koet Kan Tai Plub Ruean Taengngan* (ประเพณีเกี่ยวกับชีวิต การเกิด การตาย ปลูกเรือน แต่งงาน). Bangkok: The National Culture Institute.
- Raksayu, C. (May 19, 2019). Personal communication.
- Reece-Miller, P. C., & Endo, H. (2010). Constructing queer knowledge in educational contexts: An introduction. *The International Journal of Critical Pedagogy*, 3(1), 1.
- RLPD. (2018). *The proposed civil partnership bill*. Retrieved from https://docs.googleusercontent.com/docs/securesc/ha0ro937gcuc717deffksulhg5h7mbp1/mci0tteukm638b6n0rt68gmtsfrju2t9/1562601600000/02865808174900615856/*1yMQg1D8-gxiFsMReEjHmyjhIRcmPRb6M?e=download
- RLPD. (2019). *The summary of public consultation on civil partnership bill*. Retrieved from http://www.rlpd.go.th/rlpdnew/images/rlpd_11/rlpd_12/30.11.2561.pdf

- Rue Cha Tong Ruefuen Ongkan Songsoem Somrot? (ถ้าจะต้องรื้อฟื้น...องค์การส่งเสริมสมรส?). (2012). *Thairath*. Retrieved from <https://www.thairath.co.th/content/287375>
- Sanders, D. (2018a). *Recognition of Same-Sex Couples in Asia*.
- Sanders, D. (2018b). *Same-sex relationships: New Development in Asia*. Paper presented at the 15TH ASLI CONFERENCE SCHOOL OF LAW, SEOUL NATIONAL UNIVERSITY.
- Sanders, D. (2019). *Same-Sex Marriage: Breakthroughs in Asia*.
- Sanyawiwat, S. (2001). *Sangkhomwitthaya Khropkhrua* (สังคมวิทยาครอบครัว). Bangkok: Chulalongkorn University.
- Sedgwick, E. K. (1990). *Epistemology of the Closet*: University of California Press.
- Smith, D. (1998). 'Queer Theory' Is Entering The Literary Mainstream. *The New York Times*. Retrieved from <https://www.nytimes.com/1998/01/17/books/queer-theory-is-entering-the-literary-mainstream.html>
- Snyder, R. C. (2006). *Gay Marriage and Democracy: Equality for All*: Rowman & Littlefield Publishers.
- Spade, D., & Willse, C. (2010). I Still Think Marriage is the Wrong Goal. In R. Conrad (Ed.), *Against Equality: Queer Critiques of Gay Marriage*.
- Srichomngam, C. (2016). *Rainan Kan Wichai Rueang Kan Khumkhong Sitthi Nai Kan Somrot Khong Bukkhon Thi Mi Khwam Laklai Thang Phet* (รายงานการวิจัย เรื่อง การคุ้มครองสิทธิในการสมรสของบุคคลที่มีความหลากหลายทางเพศ).
- Stanley, E. (2010). Marriage is Murder: On the Discursive Limits of Matrimony. In R. Conrad (Ed.), *Against Equality: Queer Critiques of Gay Marriage*.
- Sukhlabhkich, S. (2014). Phua Diao Mia Diao Haeng Chat: Khropkhrua Kap Khrongkan Ronnarong Thang Watthanatham Samai SangChat Khong Chomphon Po Phibun Songkhram (“คู่ชีวิตเมียชีวิตแห่งชาติ”: ครอบครัวยุคใหม่กับการรณรงค์ทางวัฒนธรรมสมัยสร้างชาติของ จอมพล ป. พิบูลสงคราม). *Silapa Wattanatham*. Retrieved from <https://www.academia.edu/22123847/> คู่ชีวิตเมียชีวิตแห่งชาติ_ครอบครัวยุคใหม่กับการรณรงค์ทางวัฒนธรรมสมัยสร้างชาติของ_จอมพล_ป._พิบูลสงคราม
- Supap, S. (1975). *Sangkhom Lae Watthanatham Thai Khaniyom Khropkhrua Satsana Prapeni* (สังคมและวัฒนธรรมไทย: คำนิยม ครอบครัวยุคใหม่ ศาสนา ประเพณี). Bangkok: Thai Watthana Pha Nit.
- Sycamore, M. B. (2010). Why Gay Marriage IS the End of the World (or the queer world, at least). In R. Conrad (Ed.), *Against Equality: Queer Critiques of Gay Marriage*.
- Taengkliang, C. (May 10, 2019). Personal communication.
- Taengngan. (2011). In the Royal Institute of Dictionary. Retrieved from <http://www.royin.go.th/dictionary/>
- Terapachalaphon, C. (2017). Sitthi Khwam Samoephak Nai Kan Somrot Khong Bukkhon Thi Mi Khwam Laklai Thang Phet Nai Prathet Thai (สิทธิความเสมอภาคในการสมรสของบุคคลที่มีความหลากหลายทางเพศในประเทศไทย). Retrieved from http://www.ar.or.th/ImageData/Magazine/10046/DL_10332.pdf?t=636422760773190331
- Thai Civil and Commercial Code*. (1934). Retrieved from <http://library.siam-legal.com/thai-civil-and-commercial-code/>
- Tongue, M. (March 4, 2019). Personal communication.

- UNFPA, & NESDB. (2015). *The State of Thailand's Population 2015: "Features of Thai Families in the Era of Low Fertility and Longevity"*. Retrieved from https://thailand.unfpa.org/sites/default/files/pub-pdf/State%20of%20Thailand%20Population%20report%202015-Thai%20Family_en.pdf
- Warner, M. (1999). Normal and Normaller: Beyond Gay Marriage. In *The trouble with normal: Sex, politics, and the ethics of queer life* (Vol. 5, pp. 119-171): Harvard University Press.
- Wedgwood, R. (1999). The fundamental argument for same-sex marriage. *Journal of Political Philosophy*, 7(3), 225-242.
- Wolff, K. B. (2017). "I Do, I Don't": The Benefits and Perils of Legalizing Same-Sex Marriage in the United States—One Year Later. *Humanities* 2017, 6(2). doi:<https://doi.org/10.3390/h6020012>
- Yanow, D. (2000). *Conducting Interpretive Policy Analysis* (Vol. 47): SAGE.
- Yodhong, C. (2017). Mod Luk Thailand 4.0 (มดลูกไทยแลนด์ 4.0). *The Matter*. Retrieved from <https://thematter.co/thinkers/thai-womb-4-0/18257>





จุฬาลงกรณ์มหาวิทยาลัย
CHULALONGKORN UNIVERSITY

VITA

NAME Thanita Wongprasert
DATE OF BIRTH 18 October 1994
PLACE OF BIRTH Udonthani, Thailand
INSTITUTIONS ATTENDED Thammasat University
Chulalongkorn University
HOME ADDRESS 55/463 Muangthingthani3, Bond Street, Bangphut,
Pakkred Nonthaburi 11120



จุฬาลงกรณ์มหาวิทยาลัย
CHULALONGKORN UNIVERSITY