

**Policy Dialogue Forum
Gender Co-Solutions EP.4
"Review and Improve the Gender
Equality Act BE.2558"**

Definition and Language in the Law Matter

In 1995, 「**Framework Act on Women's Development**」 was enacted in order to promote gender equality in all areas of politics, economy, society, and culture to promote women's development. Since 1998, development of the **Framework Plan on Gender Equality Policies** has been established and carried out the basic direction and goal of women's rights policy.

Since then, the paradigm of women's rights policy has shifted from 'development of women' to 'realization of gender equality'. With the aim of securing gender equality rights, strengthening accountability of the government, and enhancing the system of promoting gender equality, 「**Framework Act on Women's Development**」 was revised to 「**Framework Act on Gender Equality**」.

Framework Act on Gender Equality, the FAGE, however, set back the discourse on gender equality as it places too much weight on equality between two biological sexes.

In August 2015, the Ministry of Gender Equality and Family (MOGEF) ordered the Daejeon Metropolitan Council to remove the provisions on LGBTI persons from its Basic Ordinance on Gender Equality claiming that “the provisions are incompatible with the legislative objectives of the FAGE.”



Concerning Text in the GEA 2015

1. Section 3: ‘unfair’ gender discrimination and its definition

“unfair gender discrimination” means to perform or not to perform any act dividing, obstructing or limiting any direct or indirect privilege without fairness on the grounds that such person is male or female or expresses themselves differently from their inborn gender

2. Section 17 (2): Chapter III Examination of Unfair Gender Discrimination

Proceedings under paragraph one for eliminating obstacles to access to rights and freedoms, for enabling a person to use rights and freedoms equivalently to other persons, for protecting the welfare and safety of a person for following religious rules, or for security of the nation shall not be deemed unfair gender discrimination.

International Human Rights Law Standards

CEDAW Principles

The substance of the Convention is based on three interrelated core principles: substantive equality, non-discrimination and State obligation.

The principle of **non-discrimination** is based on the understanding that discrimination is socially constructed rather than “natural”. This recognizes the need and paves the way for concerted action against inequality and the institutional mechanisms which perpetuate it.

Correcting Continued Discrimination

The uniqueness of the CEDAW Convention rests on core principles which:

- demand that power relations between women and men at all levels, from family, to community, market and state;
- discard the distinction between the private and the public spheres, by recognizing violations of women in the private sphere, as violations of women's human rights;
- recognize the negative impact of social, customary and cultural practices which are based on the perceived inferiority or superiority of either sex or on stereotyped roles for women and men.

**Traditional, historical, religious or cultural attitudes
must not be used to justify violation of human rights**

Any claim that religious beliefs can be invoked as a legitimate ‘justification’ for violence or discrimination against women and girls or against people on the basis of their sexual orientation or gender identity must be rejected.

International law is clear that the manifestation of religion or belief may be limited by States, in full conformity with the criteria outlined in Article 18(3) ICCPR, to protect the fundamental rights of others, including the right to non-discrimination and equality, a principle upon which all human rights, including the right to freedom of religion or belief depends.

Thailand has an affirmative duty to create the conditions in which all members of society can exercise their rights, including the right to hold a religion or belief.

Thailand has an obligation to ensure that where they act to protect individuals' rights to manifest their religion or belief, this does not have the effect of impairing the enjoyment of the rights to equality and non-discrimination of any member of society.

Recommendations

Amend the Gender Equality Act 2558 by

- Providing **definitions on gender, gender status, gender orientation, violence from sexual cause and sexual assault** in the law so that all law enforcement personnel at every level nationwide will have the same understanding and be able to perform their duties efficiently.
- Clarify the jurisdiction of the legislation and specify of those matters in relation to which it is not applicable.
- Abolishing section 17 (2)** of the Gender Equality Act to ensure that there are no exceptions to the prohibition of discrimination on the basis of gender.

Recommendations

Providing regular **gender equality and non-discrimination advice** including, where appropriate, training, to a cross-section of judges and judicial officers, prosecutors, civil servants, police officers, military officers and other key officials at all levels.

Such initiatives should be conducted in close cooperation **with civil society and other independent experts**, including those working closely with marginalized groups of women in Thailand. Initiatives should involve recourse to best-practice models and experience sharing with stakeholders from other countries.

Recommendations

Addressing the Ways in Which Plural Legal Systems Affect Muslim Women in the Southern Border Provinces

- Conduct **a comprehensive human rights analysis**, including in respect of gender equality principles, can be carried out in relation to the way in which the law is interpreted and applied and the system operates.
- Conduct **meaningful consultations** with diverse groups of Muslim women from the relevant provinces.
- Provide **regular training** on legal requirements regarding human rights, gender equality and non-discrimination to religious justice actors.

แบบฟอร์มการขอเผยแพร่ข้อมูลผ่านเว็บไซต์ของหน่วยงานในราชการบริหารส่วนกลาง
สำนักงานปลัดกระทรวงสาธารณสุข

ตามประกาศสำนักงานปลัดกระทรวงสาธารณสุข

เรื่อง แนวทางการเผยแพร่ข้อมูลต่อสาธารณะผ่านเว็บไซต์ของหน่วยงาน พ.ศ. ๒๕๖๑
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แบบฟอร์มการขอเผยแพร่ข้อมูลผ่านเว็บไซต์ของหน่วยงานในสังกัดสำนักงานปลัดกระทรวงสาธารณสุข

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รายละเอียดข้อมูล (โดยสรุปหรือเอกสารแนบ)

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