

“QUEERING MISOGYNY” IN THE CONTEXT OF MARRIAGE EQUALITY: A PROPOSED APPROACH TO UNDERSTANDING AND RESISTING NECROPOLITICS AND EPISTEMIC VIOLENCE AGAINST WOMEN AND LGBTQINA+ PERSONS IN THAILAND

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Thailand is not the “queer h(e)aven” imagined by many. Under Prayut Chan-o-cha’s regime, LGBTQINA+ rights activists were arrested for participating in peaceful protests under the Emergency Decree imposed on March 26, 2020, which was extended nineteen times until October 1, 2022. The 2021 Constitutional Court ruling against marriage equality reveals that misogyny is the backbone of discrimination, necropolitics, and epistemic violence against women and LGBTQINA+ persons. A queer feminist/feminist queer framework, this research contends, can demonstrate how misogyny is transposed to the realm of anti-LGBTQINA+ discourses. At the time when this chapter was revised (between August 2023 and March 2024), the parliament elected Srettha Thavisin of the Pheu Thai party as Thailand’s 30th Prime Minister, ending Prayut’s regime and three months of political deadlock where the Move Forward Party’s Prime Minister candidate was blocked by the junta-appointed senate. In December 2023, four draft bills on same-sex marriage were passed in their first reading, leading to the formation of a committee to merge and consolidate the four bills into one for further debate and votes during the year 2024. The parliament’s recent rejection of the Act on Gender Recognition, Title, and Protection of Gender Diversity, proposed by the Move Forward Party, can be seen as a setback to Thailand’s marriage equality prospects, which remain uncertain under the new coalition government formed with the junta allies.

Keywords: epistemic violence, marriage equality, misogyny, necropolitics, Thailand

1. Introduction: Go Thai. Be Unfree. (under Prayut Chan-o-cha's regime)¹

In January 2020, the Tourism Authority of Thailand (TAT) launched a website as part of the LGBTQINA+ travel marketing outreach called #GoThaiBeFree. TAT posted a series of five video clips on social media showcasing LGBTQINA+ couples enjoying the best that Thai tourism has to offer: exquisite food, elephant sanctuaries, beautiful temples, fancy hotels, exotic markets, pristine beaches, and luxurious rooftop pools. The majority of the LGBTQINA+ people depicted in the videos are non-Thais who are of a certain privileged class and wealth (Go Thai Be Free 2019). "Pink baht" is clearly the agenda, embraced by some and skeptically questioned by many like Shane Bhatla, who—as early as the start of the campaign—commented: "But I think they need to look internally: what are their own citizens struggling with?" (Howell 2019). Although the image of Thailand as queer h(e)aven for LGBTQINA+ persons may persist on the international scale, on the domestic scale, this image has been increasingly questioned and challenged.

On December 21, 2021, twenty activists were summoned to Lumpini Police Station and charged with a violation of Emergency Decree after participating in the marriage equality rally of November 28, 2021 (Prachatai English 2021). The Emergency Decree, which was imposed throughout the country on March 26, 2020, has—until October 1, 2022—been extended nineteen times (KomChadLuek 2022). It was perceived to have been hijacked and misused by Prayut Chan-o-cha's government to regulate and put public gatherings under surveillance as well as arrest protesters, many of whom are students. As a political tool, this law restricts freedom of speech and expression among those who show dissent against and engage in criticism of the government. Apart from the fact that the Emergency Decree has been dispensed like a "blank check," as law enforcement officials are exempted from civil, criminal, and disciplinary accountability, it has also been a hindrance to the fight for democracy, particularly the fight for LGBTQINA+ rights. The statement made by representatives of the twenty arrested activists comprises a defiant condemnation of the Tourism Authority of Thailand's shameless exploitation of same-sex love. It is an expression of shock and dismay at the fact that taking part in a peaceful rally for marriage equality in the very country which promotes itself as equivalent to "queer h(e)aven" can be considered a crime (Matichon Online 2021).

¹ This chapter is an updated and substantially extended version of an article entitled "Thailand—A Queer H(e)aven? & 'Queering Misogyny' in the Contexts of Thai Constitutional Court Ruling against Same-Sex Marriage and the Roe v. Wade Reversal," published in *Prachatai English* on July 19, 2022 (<https://prachataienglish.com/node/9916>).

For a country regarded as “queer h(e)aven,” especially as it is one of the only nine Asian signatories to the 2011 declaration of LGBTQ rights at the UN Human Rights Council, Thailand has not succeeded in laying strong legal groundworks for LGBTQINA+ rights. To give a brief overview of the country’s gender rights landmarks, Thailand has been signatory partner of the Convention on the Political Rights of Women since 1954. The first female judge in Thailand was appointed in 1965. In 1997, the Constitution guaranteed equality between women and men, granting equal rights and legal protection to all citizens without discrimination. This was two years after the Fourth World Conference of Women in 1995, where gender mainstreaming was adopted as the main strategy and policy for promoting gender equality. In 2005, the Individual Name Act was issued, allowing women to choose their maiden name or their spouse’s surname as their family name. In 2007, the Domestic Violence Victim Protection Act B.E. 2550 provided protection for victims of domestic violence and the Criminal Code Amendment Act (No. 19), B.E. 2550 criminalized marital rape. Prior to the year 2007, according to Section 276 of the Criminal Code, Thai law provided protection only to rape victims who belonged to the category of “a woman who is not his wife” (“หญิงซึ่งมิใช่ภรรยาตน”), which explicitly excluded marital rape (iLaw 2013). In 2011, Yingluck Shinawatra was elected the 28th Prime Minister and the first female Prime Minister in Thailand’s history before being ousted in the 2014 coup d’état. Thailand introduced the Gender Equality Act in 2015 but, thus far, it has been a disappointment. While the law prohibits discrimination based on gender, the second paragraph of Section 17 (under Chapter III: Examination of Unfair Gender Discrimination) provides a catch-all exception in which gender discrimination is allowed if it is “for protecting the welfare and safety of a person or for following religious rules, or for the security of the nation” (“เพื่อคุ้มครองสวัสดิภาพและความปลอดภัย หรือการปฏิบัติตามหลักการทางศาสนา หรือเพื่อความมั่นคงของประเทศ”) (Legal Division, Ministry of Social Development and Human Security 2015). Because the Gender Equality Act is without a mandatory function, governmental departments were simply recommended to implement the Gender Equality Act. In addition, the penalties only relate to specific infringements, rather than systematic failings. This means that many departments can easily turn a blind eye to discrimination, however blatantly it violates human rights.

The shaky legal foundation upon which gender equality in Thailand stands seemed to crumble with the Constitutional Court ruling on November 17, 2021, the wording of which reflects outrageously patriarchal, deeply misogynistic, and blatantly homophobic views. This will be analyzed in the next section.

2. The "queering misogyny" approach: People's Court versus Constitutional Court

Thailand's Constitutional Court ruled that section 1448 of the Civil and Commercial Code defining marriages as only between men and women was constitutional. The ruling was the outcome of a petition filed by Permsap Sae-Ung and her partner, Puangphet Hengkham, who—having lived together for eleven years—had made earlier attempts to register for marriage, but to no avail. Extracted from the Constitutional Court ruling and accompanied by an English translation, the passages that follow reflect not only the shameless dehumanization of LGBTQINA+ persons, but also discourses of misogyny where women's sole function as well as purpose in life, specifically marriage life, is to give birth:

The purpose of marriage is for a man and a woman to cohabit as husband and wife to form a family institution, to have children and maintain the race according to nature, to inherit property and estate, and to pass on the bonds between father, mother, siblings, uncle, and aunt. Marriage between people with gender diversity may not be able to create such a delicate bond. In case the science advances and there is discovery of more details that some kind of creatures has divergent behavior or biological characteristics, it should be categorized separately for further separate study. [...]

Implication of equality between men and women is not to prescribe a law designating that men shall be women or women shall be men, because sex is divided by nature (an act of God). Sex at birth cannot be chosen. If there are some exceptions, they must be protected separately and specifically. Thus, providing equality between men and women is not to deem them the same, but to treat them correctly in accordance with their gender. In this regard, the law must acknowledge and distinguish between males and females at first in order to provide equality. For instance, women menstruate; women can be pregnant; women have bodies weaker and more delicate than men's. In view thereof, what is not the same cannot be treated the same. The correct treatment in accordance with the way of nature will provide equality between men and women, not to include people whose gender cannot be determined with clearly separate males and females. (Constitutional Court of Thailand 2021, 13–15, my emphasis)^{2,3}

² All translations are by the author unless otherwise indicated.

³ "วัตถุประสงค์ของการสมรส คือ การที่ชายและหญิงอยู่กินกันฉันสามีภริยาเพื่อสร้างสถาบันครอบครัว มีบุตร ดำรงเผ่าพันธุ์ตามธรรมชาติ และมีการสืบทอดทรัพย์สิน มรดก มีการส่งต่อความผูกพันกันระหว่างพ่อ แม่ พี่ น้อง ลุง ป้า น้า อา ซึ่งการสมรสในระหว่างบุคคลผู้มีความหลากหลายทางเพศอาจไม่สามารถสร้างความผูกพันอันละเอียดอ่อนดังกล่าวได้ ทั้งนี้ หากวิทยาการก้าวหน้า มีการค้นพบรายละเอียดเพิ่มขึ้นว่า สัตว์โลกบางประเภทมีพฤติกรรมหรือลักษณะ

The anti-LGBTQINA+ discourses reflected in the Constitutional Court ruling correspond with the misogynist discourses propagated by then-Prime Minister Prayut Chan-o-cha's administration and circulated in the press – one of which is an example taken from a speech given by Prayut himself on International Women's Day on March 8, 2022, at the Ministry of Social Development and Human Security:

As a man, and the Minister [of Social Development and Human Security] here is also a man, [I can say that] outside the house men are so capable but in the house we're at women's mercy. They said men are like the forelegs of an elephant and women the hind legs but don't forget that when elephants fall and get stuck in a mudhole, they all reverse on hind legs. I believe that women are meticulous in their work, and they are sensible. Men and women tugging at each other would bring the kind of balance which prevents the elephant from falling. Forelegs and hind legs stepping forward together. Sometimes men wander past where they need to go because they're so hot-headed. Women are there to make our society safe just like cold water cooling down boiling hot water to lukewarm. After all, whether you are forelegs or hind legs, you are equally important. I want everyone here to be proud of yourselves because we are important to our families. (Manager Online 2022)⁴

Similar to this sexist speech, the Thai Constitutional Court ruling outdatedly normalized patriarchy, gender binary, and the *doctrine of separate spheres*, in which women are deemed the weaker sex and “angels in the house.” The misogynist emphasis on the “delicate bond” between heterosexual couples, which is forged by and is burdened upon women's crucial role “to have children and maintain the race,” is further enhanced by the normative and imperative phrase, “according to nature.” The ruling may seem, at first glance, to suggest systematic dehumanization of women, reducing them to reproductive vessels. When read, however, in the context of anti-LGBTQINA+ ideology, misogyny here can be seen

ทางชีวภาพแปลกแยกออกไป ก็จัดให้เป็นกลุ่มต่างหากเพื่อแยกศึกษาต่อไป [...] นัยความหมายของความเสมอภาคระหว่างชายกับหญิงมิใช่การบัญญัติกฎหมายให้ชายเป็นหญิงหรือให้หญิงเป็นชาย เพราะเพศนั้นเป็นการแบ่งแยกมาโดยธรรมชาติ (an act of God) ซึ่งเพศที่ถือกำเนิดมานั้นเลือกไม่ได้ หากจะมีข้อยกเว้นบ้าง ก็ควรจะแยกออกไปคุ้มครองต่างหากเป็นการเฉพาะ การให้ความเสมอภาคระหว่างชายหญิงจึงมิใช่การให้ถือว่าเหมือนกัน แต่ต้องปฏิบัติให้ถูกต้องเหมาะสมกับเพศสภาพของบุคคลนั้น ๆ ในกรณี กฎหมายจะต้องรับรู้และแยกเพศชายและเพศหญิงเป็นหลักไว้ก่อน จึงจะให้ความเสมอภาคได้ เช่น หญิงมีประจำเดือน หญิงตั้งครรภ์ได้ หญิงมีสิทธิ์ที่อ่อนแออบบางกว่าชาย เห็นได้ว่า สิ่งที่ไม่เหมือนกันจะปฏิบัติให้เหมือนกันไม่ได้ การปฏิบัติให้ถูกต้องสอดคล้องกับวิถีของธรรมชาติจะสร้างความเสมอภาคระหว่างชายหญิงได้ มิใช่ถือเอาผู้ที่กำหนดเพศไม่ได้มารวมกับความเป็นหญิงชายที่แยกกันไว้อย่างชัดเจน”

- 4 “ผมในฐานะที่เป็นผู้ชาย รัฐมนตรีก็เป็นผู้ชาย นอกบ้านผู้ชายจะเก่ง แต่ในบ้านเสร็จผู้หญิงหมด เขาบอกว่าผู้ชายเปรียบเสมือนช้างเท้าหน้า ผู้หญิงเป็นช้างเท้าหลัง แต่อย่าลืมว่าเมื่อช้างตกหลุม ช้างก็ต้องคอยหลังขึ้นด้วยขาหลังทั้งนั้น ผมเชื่อมั่นว่า ผู้หญิงมีความละเอียดอ่อนในการทำงาน มีสติ ดังขึ้นไปดังก้นมา ก็ทำให้พอดีไม่ทำให้ช้างทกล้ม เดินไปข้างหน้าด้วยกัน บางทีผู้ชายก็ชอบเดินเลย เพราะใจร้อน ซึ่งผู้หญิงจะช่วยให้สังคมสงบปลอดภัย เปรียบเสมือนน้ำเย็นที่ทำให้น้ำร้อนกลายเป็นน้ำอุ่น ทั้งนี้ ไม่ว่าใครจะอยู่หน้าหรืออยู่หลังสำคัญทั้งนั้น ขอให้ทุกคนได้ภูมิใจ เพราะเราเป็นบุคคลสำคัญในครอบครัวของเรา”

as the foreground of more brutal dehumanization, reduction, and even erasure of LGBTQINA+ lives and dignity. Misogyny, according to Kate Manne (2019) in her seminal *Down Girl: The Logic of Misogyny*, does not always entail dehumanizing women. On the contrary, misogyny is based on the notion that women, like the tree in Shel Silverstein's *The Giving Tree* (1964), are

positioned as human *givers* when it comes to the dominant men who look to them for various kinds of moral support, admiration, attention, and so on. She is not allowed to *be* in the same ways as he is. She will tend to *be* in trouble when she does not give enough, or to the right people, in the right way, or in the right spirit. And, if she errs on this score, or asks for something of the same support or attention on her own behalf, there is a risk of misogynist resentment, punishment, and indignation. (Manne 2019, xix)

The limitations of such a proposed notion by a thinker belonging to analytic feminist philosophy is clearly acknowledged in the same book: "There is also a risk of exempting individual agents from blame or responsibility for misogynistic behavior" (Manne 2019, xxi). What many find controversial in Manne's analysis can be remedied, however, when misogyny is "queered," or analyzed as an initial process leading to further discrimination against LGBTQINA+ and even to full annihilation of—especially in the case of Thailand—their legal as well as human existence. The status of the "giving tree" is not even conferred upon them by society. In the case of the Thai Constitutional Court ruling, the wording extracted for this chapter clearly reveals the devastating implications of misogyny on LGBTQINA+ persons, which leads to brutal dehumanization of those whose gender and sexuality do not conform to heteronormative values and ideology. The ruling puts those who do not identify as cisgender heterosexuals under erasure. This can be counted as *epistemic violence*, or violence exerted on the level of knowledge and discourses, e.g., the coinage of words and categorization of "good feminists" as opposed to "bad feminists" adopted to submit women who are deemed "too vocal and radical" to silence.

In the Thai context, such policing of "good feminists" versus "bad feminists" has culminated in the coinage of the term "femtwtit" ("เฟมตวิต"), a combination of "feminist" and "Twitter," which means a feminist who is vocal on Twitter (as well as other online platforms). The word can also mean the actual online post by someone who qualifies as a femtwtit. "Femtwtit" has been used as a disparaging label allocated to women perceived by anti-feminists to be intolerably loud on social media without causing any genuine change. This act of useless ranting was also given the newly coined verb "chawd" ("ฉาด"), used mostly with female netizens in order to demean and discredit their voices and opinions. Many of the online posts about gender-based violence, toxic masculinity, and discrimination

against women, shared and circulated on social media by women as an inseparable part of the current pro-democracy movement, have been undermined and condemned by anti-feminists as “femtwits.” Femtwit online posts, which often include hashtags like #MeToo and #MenAreTrash, tend to be instantly downplayed, dismissed, or cast aside as anti-feminists rush to the defense of men’s honor by including the phrase “Not All Men [are trash]” in their angry retorts instead of listening to the stories of women who have been subjected to violence. The deliberate classification of women into the binary opposition of “good feminists,” who are favored by patriarchal society for their placid non-militant ways, as opposed to “bad feminists,” or “femtwits,” who are scorned for their vocal militant campaigns, is nothing new. It reflects the divide et impera, or “divide and conquer,” strategy of maintaining power through language and discourses. The clearest example of the dichotomy between “bad” feminists as opposed to “good” feminists can be found in the British Suffrage Movement at the beginning of the twentieth century, when the term “suffragette” was coined by The Daily Mail in 1906 (Van Wingerden 1999, xiv) and allocated to the militant Women’s Social and Political Union (WSPU) founded in 1903 and led by Emmeline Pankhurst and her daughters, Christabel and Sylvia. The term “suffragette” was meant to be derogatory as opposed to the term “suffragist” allocated to the non-militant National Union of Women’s Suffrage Societies (NUWSS) founded in 1897 and led by Millicent Fawcett. Similarly, the coinage and labeling of the terms “femtwit” and “chawd” to women who are vocal online can be seen as part of both tone policing and language policing. According to Kyra Gillies (2017) in “Intersectional poetry: Spoken poetry as a platform for feminist thought free from tone policing,” the definitions of tone policing and language policing are as follows:

Language policing is about asserting rules or control over the word choice and terms that someone uses and using this as a reason to not listen to the vocal party. Tone policing is about insisting on not listening to someone based on them expressing their fear, anger, or frustration about something. Those who speak out against sexual assault and harassment are familiar with being told that people would listen to them if they did not sound so angry and like they hated men. (Gillies 2017, 88)

One does not need to look deep into the past or far into the future to see how the ideology of misogyny, reflected in the Constitutional Court’s decision, can lead not only to physical detriment, but also to *hermeneutic death*, or the annihilation of the self which takes place “when subjects are not simply mistreated as intelligible communicators, but prevented from developing and exercising a voice, that is, prevented from participating in meaning-making and meaning-sharing practices” (Medina 2017, 41). Hermeneutic death, this chapter contends, is part and parcel of necropolitics which, according to Achille Mbembe (2019), can be understood as:

the various ways in which, in our contemporary world, weapons are deployed in the interest of maximally destroying persons and creating *death-worlds*, that is, new and unique forms of social existence in which vast populations are subjected to living conditions that confer upon them the status of the *living dead*. (Mbembe 2019, 92)

In the case of Thailand, the Constitutional Court verdict created the apocalyptic "death-world" where marriage is defined in misogynistic terms and where LGBTQINA+ persons are cast as a subspecies, unworthy of equal rights to start a family in the eyes of law. Their living conditions are consigned by the necropower of patriarchal values to the realm of the "living dead." If one should agree with Jenny Stümer and Felicitas Loest (2022, 5) that "apocalypses are transformative: They are about the creation of novel and emancipatory collective imaginaries that undo pervasive conceptions of the world and trouble established ontological and epistemological promises of the ways we may inhabit this planet," Thailand's fight for marriage equality, which is driven by feminist and queer rejection of the heteropatriarchal dystopia portrayed in the verdict, is an example of such a transformative and life-affirming force amidst crisis and catastrophe. A queer feminist/feminist queer framework is therefore needed for a better understanding of how queer and feminist issues and perspectives can complement each other and reveal the ways in which misogyny tends to be transposed to the realm of anti-LGBTQINA+ discourse. One can take inspiration from the views of Mimi Marinucci (2010) who, in *Feminism Is Queer: The Intimate Connection between Queer and Feminist Theory*, insightfully propounds the idea of linking queer and feminist perspectives when it comes to tackling sexist bias:

[Q]ueer theory, like feminist theory, also has a history of racism and classism. What this suggests is that bias is pervasive, and a theoretical orientation that promises or aims to address a particular form of bias is never immune from perpetuating it. Not every critique that aims to attend to oppression will do so equally successfully. (Marinucci 2010, 107)

Marinucci acknowledges that connecting feminism with queer theory may seem to produce a paradox or even an anomaly, as *queer post-gender ethics* can be seen as the opposite of feminist theories where *gender bias* against women can be seen played out in many fields and on many levels. She states:

One consequence of the radical critique of binary thinking that queer theory offers is that it seems to deny the reality of any categories, including not just categories of gender, such as feminine, but also categories of sex, such as female. If there are not really any females, if there is nothing that really is feminine, if there are no women, indeed not even any men, then there would seem to be little value in a theoretical perspective organized around sex and gender identity. (Marinucci 2010, 108)

The currents of queer and feminist activism conjoin in one's attempt to *queer* misogyny not only in the context of LGBTQINA+, particularly Thailand's Constitutional Court ruling of November 17, 2021, but also in the context of feminist pro-democracy movement in Thailand, particularly in the case of a notable dissident movement called the Feminist Liberation Front (FLF).

FLF has always been instrumental in advocating for marriage equality. The most remarkable of this group's many activities was an event held on International Day Against Homophobia, Transphobia, and Biphobia (IDAHOT) on May 17, 2022. The event featured a rally for LGBTQINA+ rights and marriage equality, where activists read out the version of the Constitutional Court ruling on marriage law which had been rewritten by the "People's Court" (Prachatai English 2022). The People's Court ruling was part of the "People's Judgment" project launched on International Women's Day (March 8, 2022), which comprised online panel discussions in which anyone could actively participate to brainstorm, analyze, criticize, deconstruct, and revise the wording of the Constitutional Court ruling against marriage equality.

In a feminist spirit similar to that reflected in the "Declaration of Sentiments," a brave rewriting of the United States Declaration of Independence signed in 1848 in Seneca Falls, New York, Thailand's FLF-led "People's Judgment" project served as a public platform for a brave and also democratic rewriting of the Constitutional Court ruling. The People's Court's attempt to critique and amend the misogynist and homophobic content of the verdict in question can be seen in the following extract:

Fifth, the People's Court wishes to reiterate that the failure to protect the rights and freedom of one person or one group of people in society is bad for everyone. The People's Court sees that not changing the law does not only impact the life of the petitioners or other couples, but creates inequality in society. It leads to negative speech, such as "loving someone of the same sex is a sin and against good morals" as we have long heard in Thai society. This is a patriarchal interpretation, but at present, we should not decide based on patriarchy or traditional customs. Oppressing people who are different is not good morals, no matter how one defines good morals. Neither sexual or gender bias should be a factor in deciding who can marry, nor should fears that extending the right to marry will increase the burden on the state or that people will be exploiting public benefit and impact state security. Equality in this country has never been a gift from the state but is the result of a long struggle.

The People's Court has examined the case and believes that the 2017 Constitution of the Kingdom of Thailand guarantees human dignity and rights and liberties in Section 4, which stipulates that, "Human dignity, rights, liberties and equality of the people shall be protected. The

Thai people shall enjoy equal protection under this Constitution." (The People's Court 2022, my emphasis)⁵

By attacking the Constitutional Court's argument that equal rights for marriage for LGBTQINA+ is considered a mere "exceptional case" since it does not lead to "having children and maintaining the race," the wording in the "People's Judgment" ventures to *exorcize* the haunting specter of hermeneutic death of being excluded from the law and any other discursive platform imposed not only upon the LGBTQINA+ community, but also upon women. By battling head-on with "the patriarchal interpretation" of morality and marriage by means of civic politics, FLF challenged the legal exercise of necropower and exposed the necropolitics of the overarching patriarchal values to which women and LGBTQINA+ are unjustly subjected:

Marriage is a lynchpin of social organization: its laws, and customs interface with almost every sphere of social interaction. Its foundational role in defining the structures of social institution and citizenship means that definitional authority over what "counts" as marriage, and who is allowed access to it, has always been intensely political. Systematic exclusion of any group of people from the institution of marriage has been (and continues to be) a powerful way of oppressing that group in terms both of concrete rights and responsibilities and – more crucially still – in terms of the symbolic message that the group so discriminated against is unworthy of equality, and is less than "human." (Kitzinger and Wilkinson 2004, 132)

By appropriating and "usurping" legislative power, which traditionally belongs solely to the Constitutional Court, the People's Court retaliated against the epistemic violence perpetrated by the very institution which was supposed to uphold the Thai constitution by safeguarding people's "human dignity, rights, liberties and equality" regardless of sex. This is a tangible case where "a queering misogyny" approach can help build and strengthen solidarity among queer and feminist activists in the fight for marriage equality and democracy in Thailand.

⁵ "ห้า คณะตุลาการประชาชนขออย่าว่าการไม่คุ้มครองสิทธิเสรีภาพของคนใดคนหนึ่ง กลุ่มใดกลุ่มหนึ่งในสังคมเป็นผลร้ายต่อทุกคนในสังคม เห็นว่าการไม่เปลี่ยนแปลงทางกฎหมายไม่ใช่ว่ามีผลกระทบต่อการใช้ชีวิตคู่เท่านั้น ทำให้เกิดความไม่เสมอภาคเท่าเทียมกันภายในสังคม ณ ปัจจุบันไม่ควรถูกเอารัด ประเพณีศีลธรรมที่ลิดรอนสิทธิมนุษยชนมากเกินไป ชุมชนความแตกต่างหลากหลายอันเป็นสิทธิและเสรีภาพของบุคคล หรือกังวลว่าจะเป็นภาระของทางภาครัฐ จะเห็นได้ว่าความเท่าเทียมของคนในประเทศไม่ใช่ของขวัญจากรัฐแต่มาจากการต่อสู้มาอย่างยาวนาน คณะตุลาการประชาชนพึงตระหนักแล้วเห็นว่า รัฐธรรมนูญแห่งราชอาณาจักรไทยพ.ศ. 2560 คุ้มครองศักดิ์ศรีความเป็นมนุษย์ และรับรองสิทธิเสรีภาพไว้ มาตรา 4 บัญญัติว่า 'ศักดิ์ศรีความเป็นมนุษย์ สิทธิเสรีภาพ และความเสมอภาคของบุคคล ย่อมได้รับความคุ้มครอง ปวงชนชาวไทยย่อมได้รับความคุ้มครองตามรัฐธรรมนูญเสมอกัน'"

3. (In)conclusion: What's next for marriage equality in Thailand?

At the time this chapter was revised (between August 2023 and March 2024), the parliament elected Srettha Thavisin of the Pheu Thai party as Thailand's 30th Prime Minister, ending Prayut's regime and three months of political deadlock where Pita Limjaroenrat, Move Forward Party's Prime Minister candidate, was blocked by the junta-appointed senate. In December 2023, four draft bills on same-sex marriage were passed in their first reading, with all but eleven of 380 votes from the lower house (Reuters 2023). Apart from the same-sex marriage draft bill put forward by the cabinet, the versions proposed by the Move Forward Party, the Democrat Party and the civil sector, namely, the Rainbow Coalition for Marriage Equality, were also approved. According to Mookdapa Yangyuenpradorn, who is Human Rights Associate at Fortify Rights, "The one submitted by the cabinet and approved by the Prime Minister takes precedence over the rest" (Civicus 2024), despite the fact that the civil society bill is the most progressive in terms of LGBTQINA+ parental rights. The bill is also the most progressive in terms of the proposed transitional procedure where LGBTQINA+ couples can immediately register their marriages without having to wait for all the other relevant laws to be completely revised and amended. The subsequent stage is for the newly formed committee to merge and consolidate the four bills into one for submission to the lower house for a second reading (from a total of 3 readings), the senate (a total of 3 readings) and the Constitutional Court before being ratified by the King and published in the Royal Gazette. Although passing the first reading can be seen as a ray of hope on the horizon of such a long and winding journey, the parliament's recent rejection of the Act on Gender Recognition, Title, and Protection of Gender Diversity, which was proposed by the Move Forward Party, can be seen as a setback to Thailand's marriage equality prospects, which remain uncertain under the new coalition government formed with the junta allies.

The telling signs of uncertainty can be seen in the following facts. Firstly, ever since the Marriage Equality Bill passed its first reading under Prayut's regime on June 15, 2022, its fate has been precarious because of the following regulation: "Under Thai law, the Cabinet has 60 days from the opening of parliament to request parliament to reconsider any bill that lapsed after parliament was dissolved. Since parliament opened on July 3, the cabinet has until September 3 to restore the Marriage Equality Bill to parliament" (Prachatai English 2023). It was none other than the Move Forward Party that resubmitted the Marriage Equality Bill in early August 2023, prior to the parliamentary vote for the new Prime Minister. The Move Forward Party, despite having won 36.23 percent of the vote in the 2023 general election, hence winning the highest seats in parliament, was nevertheless consigned to the opposition. Pita Limjaroenrat's nomination was opposed in July 2023 by many senators and house representatives on the basis that the Move

Forward Party planned to amend Section 112 of the Criminal Code (Lèse-majesté law). *Bangkok Post* (2023) reports on one of the most controversial moments in parliament as follows:

Chada Thaiset, an opposition Bhumjaithai MP for Uthai Thani, said that any change to Section 112 would cause unrest. "If you let people insult the monarchy without any laws to keep them in check, our country will burn," he said. "How about I propose a law allowing people to shoot those insulting the monarchy?"

What should have been the candidate election for Prime Minister in the parliament, which is composed of 749 members, instead sounded like a premature and uncalled-for debate of no confidence. Although Pita Limjaroenrat ran unopposed in the vote, only 324 members supported him, including 13 senators, while 182 voted against and 199 abstained. Since the Marriage Equality Bill had originally been proposed and pushed forward by the Move Forward Party, it remains to be seen if the parliament, which is clearly not on the side of this party, will ultimately thwart the bill or vote for the kind of progressive law which will be beneficial to all in Thailand. Being cast as *enfant terrible* in the parliament, the Move Forward Party, on August 30, 2023, even failed to secure a majority of votes in their attempt to speed up the motion of charter reform (Khaosod Online 2023).

The rejection of the Act on Gender Recognition, Title, and Protection of Gender Diversity proposed by the Move Forward Party, with 154 votes in favor, 257 against, one abstention, and one vote not cast (iLaw 2024) in February 2024, can be regarded as a setback to Thailand's marriage equality prospects, which remain uncertain under the new coalition government formed with the junta allies.

The Thai studies scholar Peter A. Jackson has put on center stage the ruling elites' role in instilling heteronormativity in Thai laws and mainstream social values. In order to resist and counter the currents of colonialism from the West which had threatened Siam and cast Siam as uncivilized, King Vajiravudh (1881–1925), known as Rama VI of the Chakri dynasty, adopted Victorian gender norms, particularly the gendered domestic–public dichotomy. This was part of an ongoing project, the zenith of which can be seen in the reign of King Chulalongkorn (1853–1910), known as Rama V of the Chakri dynasty, to demonstrate that Siam was "civilized" and its people far from barbaric. Similarly, Field Marshal Plaek Phibunsongkhram, who served as Prime Minister of Thailand from 1938 to 1944 and 1948 to 1957, further enhanced heteronormative hegemony via his mandate for strict demarcation of gender in each individual's name:

Under King Vajiravudh, the more formal gendered titles of *nai* [Mr] for men and *nang-sao* [Miss] and *nang* [Mrs] for women were introduced. However, Phibun regarded the lack of gender specificity of Thai names

as marking a lack of civilisation. He set up a "Committee for Establishing the Principles for Giving Personal Names", made up of language and culture experts, including the famous cultural historian *Phraya Anuman Ratchathon*, who were tasked with drawing up a list of names and assigning a masculine or feminine gender to each. (Jackson 2003)

It can therefore be inferred from these examples and from the ongoing debates in the Thai parliament regarding Marriage Equality and the Act on Gender Recognition, Title, and Protection of Gender Diversity that any proposed bill, aimed at breaking the mold of two-sex binary division, is deemed an attack on the legacy of the Thai ruling elites. It is not surprising that the reading of any proposed bill with content equivalent to that of the recent Act on Gender Recognition, Title, and Protection of Gender Diversity never even saw the light of day under the past Junta administration, which has always aligned itself with the ruling elites and the conservative ultraroyalist as well as ultranationalist forces.

Critical discourse analysis of the speeches given by a number of the cisgender heterosexual male Members of Parliament reveals outdated sexist views and heteronormative entitlement. Teerachai Saenkaew, Pheu Thai Party MP for Udon Thani province, cited, for example, concerns about false identities. He contended that the license to change gender titles *at will* could lead to scamming, harassment, and sexual assault (PostToday 2024). Teerachai's speech, reflecting sexism and deep-seated prejudice against LGBTQINA+ persons, proved stronger than the defensive argument put forward by Pantin Nuanjerm, Move Forward Party MP for Bangkok, that, instead of denying LGBTQINA+ persons their right to change their legal titles in order to prevent scamming and other crimes, one should understand that it is the task of crime suppression agencies to tackle the issue of individuals disguising their identity for criminal purposes (Watson 2024).

Apart from Teerachai Saenkaew, Pheu Thai Party MP Anusorn Iamsa-ard also rejected the Act on Gender Recognition, Title, and Protection of Gender Diversity on the basis that, in his opinion, LGBTQINA+ persons were dignified individuals who were perfectly capable of taking pride in themselves regardless of the self-determined gender titles: "We did say that we are proud of being an LGBTQ, didn't we? Then, why would we want to change from our LGBTQ status to Mr. or Miss? Does this mean, then, that we do not really take pride in our gender and the status that we're in?" (Panisā' Ēm'ōchā 2024).⁶ Anusorn illustrated his claim by singing a few lines extracted and adapted from a popular song called "Kathoe's Protest" ("กะเทยประท้วง")⁷ by the Thai folk singer Poyfai Malaiporn: "I'm proud, so proud to be

⁶ "ก็ไหนว่าเรากลุมใจในความเป็น LGBTQ แล้วเราจะไปเปลี่ยนจากสภาพ LGBTQ ไปเป็นนาย ไปเป็นนางสาว ก็เท่ากับเราไม่ได้ 'ไพรด์' ไม่ได้ภูมิใจกับเพศสภาพ กับสถานะที่เราเป็นหรือเปล่า"

⁷ The term "kathoe" in Thai, although popularly associated with a transgender woman or an

a kathoey. Though people make fun of me, I don't care. They are just big mouths" (Thairath 2024).⁸ One only has to examine the full lyrics of this iconic song to see that Anusorn's claim is flawed as he deliberately downplays LGBTQINA+ persons' wishes and dreams to define themselves on their own terms. The irony of his chosen example lies in the fact that "Kathoey's Protest" also contains the following lyrics: "If you force me to be a man, I would rather die. I would rather die than live" (Topline Digital Network YouTube Channel 2011).⁹

Fighting for marriage equality in Thailand means struggling not only for "the privilege that heterosexuals alone have heretofore had, namely the privilege of claiming that *despite their multiple deviations* from norms governing the family, their families are nevertheless *real* ones," but also for "the cultural authority to challenge existing familial norms, to redefine what constitutes a family, and to demand that the preferred definition of the family be reflected in cultural and legal practices. Centered within a liberatory lesbian and gay politics, the bid for access to the family is the bid for the right to exercise definitional authority with respect to the family" (Calhoun 2000, 156). To vehemently resist being reduced to mere "cases of exception" in law has also been part of the history of women's movements worldwide—e.g., from the obsolete legal doctrine of "coverture" in English common law, where women had no legal existence except when merged with their husbands, to the "María Clara doctrine," a legal doctrine applied by Philippine courts in cases concerning abuse against women, which still exists today.¹⁰ Feminist theories and activism can unite with queer theories and activism in "queering misogyny," or an approach through which one exposes and, by doing so, deconstructs misogynist discourses in the contexts of discrimination, necropolitics, and epistemic violence against LGBTQINA+ persons. The case of marriage equality in Thailand can therefore be regarded as a textbook example of the possibility of a queer feminist/feminist queer analytical framework. Given the current political uncertainty in Thailand, it can also be studied as a case study in the making.

effeminate gay male, is closest to the term "queer" in meaning and implication.

8 "ฉันภูมิใจ ภูมิใจที่เป็นกะเทย ไผ่ลิเวียเขาเขี่ย กะสร้างเกาะเวีย กะสร้างเกาะเวียปากคน"

9 "ฉันสืให้ฉันเป็นผู้ชาย ฉันขอยอมตาย สะยอมตายดีกว่า"

10 Named after María Clara, the fictional "ideal woman" character from José Rizal's novel *Noli Me Tángere* (1887), this legal doctrine, which became part of the Philippine jurisprudence since 1960, is based upon a presumption "that women, especially Filipinas, would not admit that they have been abused unless that abuse had actually happened" (Buban and Lardizabal Law Offices 2018). This means that the credibility of a victim's testimony depends upon whether she conforms to the mainstream patriarchal values and stereotypes of female purity, modesty, and righteousness. Testimony given by a woman who does not fit the mold of María Clara tends to be discredited, resulting in the unjust dismissal of many rape cases.

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