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**Joint Submission Prepared by**  
**The Coalition of CSOs and INGOs for Children's SOGIESC<sup>1</sup> Rights -**  
**Thailand**

**Submitted: 25 March 2021**

**Situations and Recommendations**  
**made and influenced by Children and Youth in Thailand**

*The Coalition of CSOs and INGOs for Children's SOGIESC Rights Thailand is composed of eight civil society organizations and international non-governmental organizations working to promote the rights of children with diverse SOGIESC: Save the Children Thailand, Plan International Thailand, ECPAT Foundation, World Vision Foundation of Thailand, The Life Skills Development Foundation (TLSDF), PYNA Organisation, Association of Children and Youth for the Peace in the Southernmost Provinces of Thailand (Luukrieang), The Foundation of Transgender Alliance for Human Rights<sup>2</sup>*

**Save the Children Thailand** has been working since 1984 to support the most vulnerable children through programmes on Education, Child Protection, Health and Nutrition, and Disaster Risk Reduction.

**Plan International Thailand** works on protection and advancing equality for children and youth, especially girls and young women.

**ECPAT Foundation** has been working since 1998 to protect children in Thailand from all forms of sexual exploitation. The Foundation is a member of ECPAT International global network.

**World Vision** is a Christian charitable organization with over 70 years of experience working with communities, partners, governments, and donors to create opportunities and better futures for the most vulnerable children. **World Vision Foundation of Thailand** has been registered as foundation in Thailand since 1974 and works in 42 provinces across all regions of the country.

**The Life Skills Development Foundation (TLSDF)** works to empower and build the capacity of the individuals and groups responsible for ensuring the entitled rights of children (survival, development, protection, and participation) in accordance with the UN Convention on the Rights of the Child (UNCRC)

**PYNA Organisation** is a local organization promoting the rights of children and youth in Phayao province.

**Association of Children and Youth for the Peace in the Southernmost Provinces of Thailand (Luukrieang)** has been working since 2002 on child protection, relief, development, and community activities.

**The Foundation of Transgender Alliance for Human Rights** supports transgender and gender diverse people in Thailand to have a better quality of life and works to advance the human rights of transgender people through advocacy, movement strengthening and leadership development strategies.

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<sup>1</sup> Sexual Orientation, Gender Identity and Expression, and Sex Characteristics

<sup>2</sup> The report was written with assistance from Joel Mark Barredo, Suthida Chang, Bongkoch Dararut, Wannapat Jenrumjit and Punnavit Tantirapan

## Introduction: Laying the Groundwork

1. This report is based on five consultations with 90 children (age range from 14 – 18) and youth organized by civil society organizations (CSOs) in Thailand, namely: Save the Children Thailand, Plan International Thailand, ECPAT Foundation, World Vision Foundation of Thailand, The Life Skills Development Foundation (TLSDF), PYNA Organisation, Association of Children and Youth for the Peace in the Southernmost Provinces of Thailand (Luukrieang), The Foundation of Transgender Alliance for Human Rights. It has to be stressed that children’s voices are at the heart of this Universal Periodic Review (UPR) report. In pursuit of inclusion and participation of children on the ground, a series of consultations were conducted in select areas of the country, particularly Phayao, Chiang Mai, Chiang Rai, and Yala. Children, including those who identify as Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ+) and those who don’t. Children who participated in the consultations were given information on children’s rights, rights concerning sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) as well as the significance of the UPR process. This series of consultations served to gather insights and narratives from child-consultants<sup>3</sup>. This process was supported by a review and analysis of relevant laws, policies and reports (2016 to March 2021) covering child rights, including the rights of children with diverse SOGIESC. It has to be reiterated that this report is groundbreaking as it captures voices by children on the ground, and more importantly, it reflects the lived realities and aspirations of children living in Thailand with diverse SOGIESC. It is also meant to highlight recommendations made and influenced by children for the full protection of SOGIESC rights.<sup>4</sup>
2. In the second UPR cycle (2012 – 2016), the Royal Thai Government’s (RTG) accepted a recommendation from Mexico to ‘Intensify efforts to promote policies in the area of prevention, sanction and eradication of all forms of violence against women, including measures aimed at promoting their rights regardless of its religion, race, **sexual identity** or social condition<sup>5</sup>.’ While the mention of ‘*sexual identity*’ can be implied as reference to LGBTIQ+ women, there had been no other direct references or recommendations pertaining to LGBTIQ+ issues, in particular on LGBTIQ+ children. Therefore, this report’s central focus is the situation of LGBTIQ+ children.
3. Since the Second UPR Cycle, Thailand has had its fair share of achievements and setbacks with respect to the situation of LGBTIQ+ people. When it comes to legal frameworks, the Gender Equality Act of 2015 set national standards for the elimination of gender-based discrimination. Moreover, there have been initiatives within parliament to amend the current Marriage Law (Thai Civil and Commercial Code 1448), allowing couples to be legally married regardless of their gender or sex assigned at birth, while also raising the minimum age from 17 to 18 years<sup>6</sup>. In parallel efforts, the draft Civil Partnership Bill that would allow same-sex couples to be recognized as civil partnership had been approved by the Thai Cabinet in July 2020 and the Bill will be submitted to House of Representatives, Senate and Parliament. This draft Bill would not grant equal rights to marriage and may have implications on child rights as it states that persons at least 17 years old can register as civil partners<sup>7</sup>.
4. Thai SOGIESC CSOs are heavily invested in fighting for LGBTIQ+ rights and human rights in general. LGBTIQ+ activists and groups have also been part of democratic processes in recent times. Particularly, LGBTIQ+ children and youth have joined and led democratic movements<sup>8</sup>.
5. While significant efforts are being made by CSOs to advance the rights of LGBTIQ+ persons living in Thailand, very little State action, including drafting and implementation of relevant policy has been done, to ensure SOGIESC rights, particularly among children.
6. It is key to note that an individual’s gender and sexual experience does not exist in a vacuum; children continue to face barriers related to their citizenship status, religious association, economic status, geographic location, and political positioning.

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<sup>3</sup> The term “child-consultants” refers to children and youth who participated in the consultations organized by The Coalition of NGOs for Children’s SOGIESC Rights - Thailand

<sup>4</sup> Consultations with children and youth in 2021.

<sup>5</sup> A/HRC/33/16 - Para. 158.84

<sup>6</sup> “Marriage law amendments now up for public consultation.” 2020. *Prachatai*. <https://prachatai.com/english/node/8634> (Accessed on 24 March 2021).

<sup>7</sup> “Cabinet approves Civil Partnership bill.” 2020. *Prachatai*. <https://prachatai.com/english/node/8636> (Accessed on 24 March 2021).

<sup>8</sup> Salvá, A. 2020. “The LGBT Community Joins the Thai Protests.” *The Diplomat*. <https://thediplomat.com/2020/12/the-lgbt-community-joins-the-thai-protests/> (Accessed on 24 March 2021).

## Friendly, Yet Urgent Reminder: Upholding Standards, Laws and Commitments in Thailand

*“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.” (Article 7, Universal Declaration on Human Rights)*

7. It is crucial to underscore that the Thai government has ratified, signed and/or pursued standards that allow children to claim their rights, particularly in light of their gender and sexual identities and experiences. At the international level, Thailand, as a Member State, is obligated to abide by the rules and principles upheld by the United Nations. Hence, it is expected to stay committed to human rights, which is one of the major pillars of the United Nations. This is clearly expressed in the Universal Declaration on Human Rights. It is also State Party to a number of international human rights instruments, including the Convention on the Rights of the Child (CRC). Based on a review of its most recent periodic report to the Committee on the Rights of the Child in 2012, Thailand has made steps to achieve the principles of non-discrimination and the best interest of the child - in terms of policies and law.<sup>9</sup> However, as evident in this report, a number of children, particularly those at the margins, have yet to fully enjoy their basic rights and freedoms - including with regards to SOGIESC. Thailand has yet to submit its fifth Periodic Report to the Committee on the Rights of the Child, which can provide for an opportunity for the RTG to report on its progress in fulfilling children’s rights as well as to ensure that the conditions for children are improved.
8. The Yogyakarta Principles Plus 10<sup>10</sup> are additional principles and State obligations on the application of International Human Rights Law (IHRL) in relation to SOGIESC. Yogyakarta Principles Plus 10 was developed and upheld by like-minded academics and advocates, such as Prof. Vitit Muntarbhorn of Chulalongkorn University, who is also the first UN Independent Expert on the Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity. This is a significant milestone and standard which Thailand can adopt to further champion LGBTIQ+ rights, not just in the country, but throughout the Asia region, and even globally .
9. On the regional front, Thailand is a member of the Association of Southeast Asian Nations (ASEAN). While ASEAN still has to take a stance on SOGIESC, its Charter provides in Article 1, Paragraph 7 that the association shall “...strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN<sup>11</sup>.” The ASEAN Human Rights Declaration (AHRD) recognizes intersecting lived realities and identities amongst its people, including children. Principle 4 provides that, “the rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalised groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms<sup>12</sup>.”
10. Legal frameworks in Thailand recognize the rights of children, as well as the need for society to enjoy gender equality. However, there are lacking specific legal references to children’s SOGIESC rights. The Thai Constitution of 2017 has provisions recognizing equality. However, it still views gender from a binary perspective. Measures are mandated to eliminate barriers that may affect children from enjoying their rights.<sup>13</sup>
11. As previously mentioned, The Gender Equality Act of 2015 recognizes gender identity and gender expression. It defines “unfair gender discrimination” to mean “any act or omission of the act which causes division, discrimination or limitation of any right and benefit either directly or indirectly without justification due to the fact that the person is male or female or of a different appearance from his/her own

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<sup>9</sup> CRC/C/THA/CO/3-4

<sup>10</sup> International Commission of Jurists (ICJ). 2017. “The Yogyakarta Principles Plus 10 - Additional Principles and State Obligation on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles.” <http://yogyakartaprinciples.org/principles-en/yp10/> (Accessed on 24 March 2021).

<sup>11</sup> Association of Southeast Asian Nations (ASEAN). 2007. “Charter of the Association of Southeast Asian Nations.” <https://www.asean.org/storage/images/archive/21069.pdf> (Accessed on 24 March 2021).

<sup>12</sup> Association of Southeast Asian Nations (ASEAN). 2012. “ASEAN Human Rights Declaration.” <https://asean.org/asean-human-rights-declaration/> (Accessed on 24 March 2021).

<sup>13</sup> “Thailand: Constitution of the Kingdom of Thailand.” 2017.

[https://www.constitutionalcourt.or.th/occ\\_en/download/article\\_20170410173022.pdf](https://www.constitutionalcourt.or.th/occ_en/download/article_20170410173022.pdf) (Accessed on 24 March 2021).

sex assigned at birth<sup>14</sup>." In second UPR cycle (2012 – 2016), Thailand has accepted a recommendation made by South Africa to effectively implement the Gender Equality Act (2015)<sup>15</sup>. Moreover, Thailand voluntarily committed to revise Section 17 of the Act, which allows gender-based discrimination due to religion beliefs or security of the nation, to be in line with international human rights obligations<sup>16</sup>. These recommendation and commitment have not been implemented by the State. Although the Act mandates state and local agencies to address issues related to gender-based discrimination, there is no direct reference to LGBTIQ+ children and no child-friendly access to file any complaint to the mechanism.

12. The Child Protection Act (2003) provides the definition of the child and obligates measures for child treatment, assistance, and welfare protection at the local and national levels. It has failed to address any SOGIESC-related issues that would affect a child's ability and well-being<sup>17</sup>.

#### *Recommendations*

- Submit Thailand's Fifth Periodic Report to the Committee on the Rights of the Child and ensure the participation of LGBTIQ+ children in the drafting and dissemination of the report
- Intensify mandates of relevant ministries and local agencies to address challenges faced by LGBTIQ+ children
- Establish regular consultations with children, specifically from LGBTIQ+ children with regards to the implementation and monitoring of laws and policies, such as the Gender Equality Act (2015) and the Child Protection Act (2003).
- Amend the Gender Equality Act (2015) and the Child Protection Act (2003) to protect LGBTIQ+ children in line with the Yogyakarta Principles 10+ and other international human rights standards.

### **Shedding Light on Situations faced by Children with Diverse SOGIESC**

#### ***Realising Children's Agency, Mental Health and Recognition of SOGIESC***

*"When transgender children or youth want to enter a contest or showcase their skills, the only choice is to write their sex assigned at birth. Transgender girls cannot join activities with other girls, for example, to compete in the Miss Noppamas contest."*

Sharing from Chiang Mai

13. The lack of legal gender recognition based on self-determination is one of the fundamental barriers against the achievement of equality and full acceptance of SOGIESC in Thai society. According to Thai law, the use of titles (*Dek Chai/Nai* for males and *Dek Ying/Nang Sao/Nang* for females) and gender markers are still based on one's sex assigned at birth. Moreover, children born with intersex variations are assigned either male or female by doctors. For children, not being legally recognized for their gender identity bars them from developing their sense of self and modes of expression, while they start interacting with social units and circles. In 2017, the draft Gender Recognition Act by the Department of Women's Affairs and Family Development was released; however, it was restricted as only those who undergo surgeries can request for gender recognition, which was pushed back by the public<sup>18</sup>. Currently, there are four draft laws for legal gender recognition that are being developed by LGBTIQ+ groups.
14. A major concern is the growing number of mental health issues confronted by LGBTIQ+ children in Thailand. It has been reported by Save The Children that LGBTIQ+ children may need specialised psychological support as they explore and express their SOGIESC, while they may face struggles, such as

<sup>14</sup> "Thailand: Gender Equality Act, B.E. 2558". 2015. <http://law.m-society.go.th/law2016/uploads/lawfile/594cc091ca739.pdf> (Accessed on 24 March 2021).

<sup>15</sup> A/HRC/33/16 - Para. 158.64

<sup>16</sup> UPR Info. 2016. "2RP: Responses to Recommendations & Voluntary Pledges. Thailand. Second Review, Session 25." [https://www.upr-info.org/sites/default/files/document/thailand/session\\_25\\_-\\_may\\_2016/recommendations\\_and\\_pledges\\_thailand\\_2016.pdf](https://www.upr-info.org/sites/default/files/document/thailand/session_25_-_may_2016/recommendations_and_pledges_thailand_2016.pdf) (Accessed on 24 March 2021).

<sup>17</sup> "Thailand: Child Protection Act, B.E. 2546" 2003. <http://un-act.org/publication/view/thailands-child-protection-act-2003/> (Accessed on 24 March 2021).

<sup>18</sup> UNDP and MSDHS. 2018. "Legal Gender Recognition in Thailand: A Legal and Policy Review." *UNDP*, pp 32.

harassment, discrimination, and stigma<sup>19</sup>. Furthermore, they may possibly also seek mental health services for reasons unrelated to their gender identity or sexuality. Although it is recommended by WHO that national mental health plans should specify measures for specific vulnerable groups including LBGTIQ+ persons, Thailand lacks such measures. A child-consultant with same-sex attraction from Chiang Mai shared her experience where she was unable to receive psychological support as she could not obtain parental consent, which was a legal requirement for children under 18 years. After waiting for several years until she turned 18, she saw a psychiatrist who implied that changing her sexual orientation might be better for her<sup>20</sup>. This barrier not only affects one's individual development, but also one's ability to deal with pressures and norms perpetrated, even when receiving mental health services.

#### *Recommendations*

- Adopt a legal gender recognition law based on self-determination principle without requirements for medical interventions, with child-friendly access to such process.
- Establish child-friendly and accessible mental health services for LBGTIQ+ children, and eliminate any legal requirements of parental consent for children under 18 years seeking psychological support.

#### ***Locating Oneself within the Family***

*"Parents do not accept our identities. Some parents are conservative. They would say 'I do not want my children to be the third gender.' This has become a major problem at home."*

Sharing from Phayao

15. The family unit is meant to be a child's organic support system, and, most importantly, their first line of defense against any forces that may result in problems or harm for a child. Despite this, LBGTIQ+ children face difficulties in obtaining support and acceptance from their parents and other family members<sup>21</sup>. In one of the consultations with children and youth, a young transgender girl shared her experience where her mother told her, "it would be great if this world had medicine to cure people from becoming transgender<sup>22</sup>." Such narrative is harmful especially for children who are likely struggling with personal issues and with social norms.
16. While LBGTIQ+ children may wish or had to disclose their SOGIESC, they risk losing support from their family, whom they depend on for basic needs. Furthermore, LBGTIQ+ children can face negative responses from parents, ranging from anxious concerns about the child's well-being and future, to abuse and even banishment of the child from the home.<sup>23</sup>

*"I once dressed like a girl in school. My mother cried, and I was told not to do it again."*

Sharing from Chiang Mai

17. Child-consultants shared that problems at home have direct effects on young peoples' lives, which further aggravates their mental health and marginalised situation. Many children and youth had to negotiate acceptance of their SOGIESC for their extra efforts, such as excelling at school or earning money for their families, pressuring them to 'do more' in order to earn acceptance from families<sup>24</sup>. Children from Chiang Rai reported that some parents do not care about their children - to the point of being incapable of giving love. Furthermore, "they expect children to do what they want; and it causes depression and guilt when expectations are not met." Children in Phayao also asserted that they are pressured to follow parents' orders and are constantly compared with other children.

<sup>19</sup> Olivier, S. and Thurasukarn, O. 2018. "Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTQI+) Youth in Thailand: Exploratory Research Report." *Save the Children*, pp. 18-20

<sup>20</sup> Inputs from Chiang Mai Consultation (2020)

<sup>21</sup> Samakkeekarom, R, & Taesombat, J. 2013. "Couple Life. Family Building Among LGBT People: Types, Acceptance and Needs." *Quality of Life and Law Journal*. Mahidol University 9(2).

<sup>22</sup> Inputs from Bangkok Consultation (2020)

<sup>23</sup> Olivier, S. and Thurasukarn, O. 2018. "Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTQI+) Youth in Thailand: Exploratory Research Report." *Save the Children*, pp. 10

<sup>24</sup> Inputs from consultations in 2020

*“My gay cousin was told by a family member that if he does not change, they will cut his penis.  
This is a form of sexual harassment!”  
Sharing from Chiang Mai*

18. In terms of gender stereotypes, child-consultants shared that parents usually treat their girl and boy children differently. In a Thai family, children are aware that “sex assigned at birth dictates your actions, sexual orientation and behavior.” This is why LGBTIQ+ people are afraid to express themselves to others - leading to one’s social isolation - even within their homes. Being an LGBTIQ+ person causes not only confusion in the family, but also forces a child to be ostracized. This treatment of LGBTIQ+ children is influenced by existing norms and social practices. In rural areas, parents usually face difficulties to explain or talk about this reality within the family. Furthermore, in some ethnic areas, families are forced to believe that there is no such thing as LGBTIQ+.<sup>25</sup>
19. The lack of understanding and recognition directly affects a child’s mental health, which also limits one from seeing their own value. Much worse, as per narratives from Yala, children are even subjected to violence, when they are unable to meet expectations. They are also bullied and called out for their “unusual” actions and behavior.

#### *Recommendations*

- Provide support in building understanding and positive parenting skills to ensure that families and homes are safe for LGBTIQ+ children.

### ***Navigating Challenges in School***

*“The school tells students not to get too close to the “third gender.” My friend, who was supposed to be someone whom I trust, obeyed this teaching and did not accept me. I want my friend to accept me for who I am.”  
Sharing from Phayao*

20. The school is supposed to be where one is able to develop one’s capacity, ability, social skills and identity. It should also be a safe space for children to express who they are, including their sexuality - and be respected for such personal searching. However, “for many LGBTIQ+ students, school can be a place of discrimination, harassment and abuse. The effect of a negative school environment can lead to lower levels of educational achievement, absenteeism, and early drop-out rates for LGBTIQ+ youth. This has negative impacts on access to further training and educational and employment opportunities<sup>26</sup>.”

*“School is not safe for a child – being violently abuse i.e, taking off pants, taking inappropriate photos, neglecting by teachers. The roles of girls and boys are determined by the teacher”  
Sharing from Yala*

21. SOGIESC-based bullying is a result of unequal power dynamics induced by gender stereotyping. At the moment, while there are laws such as the Child Protection Act, and systems for student protection in public schools, they have been ineffective to recognize and address SOGIESC-based violence. Such violence is not just done by students, but also by teachers and school officials. A child with same-sex attraction has shared that he faced bullying from peers and recalled an incident where he was locked inside a janitor’s room on a Friday afternoon<sup>27</sup>. Overall, a report has shown that more than half of LGBT students face bullying in schools, which linked to a higher risk of depression, missing school, lower grades, having unprotected sex and even attempting suicide<sup>28</sup>.

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<sup>25</sup> Inputs from Children Consultation.

<sup>26</sup> Olivier, S. and Thurasukarn, O. 2018. “Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTQI+) Youth in Thailand: Exploratory Research Report.” *Save the Children*, pp. 16

<sup>27</sup> Inputs from consultation (2020).

<sup>28</sup> Mahidol University, Plan International Thailand, UNESCO Bangkok. 2014. “Bullying targeting secondary school students who are or are perceived to be transgender or same-sex attracted: Types, prevalence, impact, motivation and preventive measures in 5 provinces of Thailand.”

22. Freedom of expression is a right that has yet to be fully enjoyed by children with diverse SOGIESC within schools. This is most apparent when it comes to the issue of uniforms. While some universities allow students to wear uniforms according to their identity, at elementary and secondary levels, LGBTIQ+ children are not allowed to wear the uniforms that align with their gender identity and gender expression<sup>29</sup>. Students have demanded to revise policies on haircut and uniforms to ensure that children can express themselves regardless of their sex assigned at birth<sup>30</sup>.
23. Child-consultants see the need for an overhaul on how schools treat LGBTIQ+ children. Children from Yala highlighted a fundamental misunderstanding of diverse gender identities, whereby being LGBTIQ+ is considered a disease and this notion is still propagated in their school. It is reported that children who appear to be trans feminine are punished by teachers through shaving the children's heads. In Chiang Rai, it is reported that teachers generally do not listen to student's opinions and use violence against children. This is supported by children from Chiang Mai who said that students are still unable to freely speak their minds and express their truths on school grounds.

#### *Recommendations*

- Establish safe and empowering spaces/mechanisms in schools, in which LGBTIQ+ children have access to counselling and reporting of incidents.
- Recognize and sanction any acts of violence, including SOGIESC-based bullying.
- Adopt laws and policies allowing students to wear uniforms according to their gender identity and to eliminate haircut restrictions
- Develop knowledge on SOGIESC, children's rights and human rights through incorporation in the basic education curriculum
- Increase and strengthen teachers' awareness and understanding on SOGIESC to enable gender sensitive classroom environment and teaching

#### ***Confronting Norms set by Communities and Societies***

*"In my community, there are distinct activities for men and women. For example, they make us fall in line with either male or female. When katoey or girls with short hair wanted to join the line, people in the community looked at us as strange. They discriminate against us and say we are different. We are outraged and offended!"*

Sharing from Phayao

24. Thai society is generally tolerant but does not wholly accept sexual and gender minorities as "there is still significant stigma around SOGIESC. There may be various explanations for this. The first seems to be a general lack of understanding and information about human sexuality and gender, and about what it means to have non-conforming SOGIESC. Misconceptions and misinformation are perpetuated by negative media representations of LGBTIQ+ people and issues, or by their lack of representation, as well as by the persistence of conservative cultural or religious norms<sup>31</sup>."

*"Adults do not listen to the opinions of children in the community. Children do not have the right to speak; adults do not listen."*

Sharing from Chiang Rai

25. Children find it difficult to speak their mind in a society that highly regards seniority and respect for elders. This predicament is much worse for young LGBTIQ+ individuals, who have to contend with multiple issues on their own. Bullying is rampant - especially to those who express themselves "flamboyantly" in public. Many who are seen as "clowns", are constantly being ridiculed in public<sup>32</sup>, and even "condemned by the community<sup>33</sup>". In Yala, many are forced to "dress in accordance to their sex assigned at birth". Furthermore, those who do not conform are likely to be discriminated against in terms of employment opportunities.

<sup>29</sup> UNDP and MSDHS. 2018. "Legal Gender Recognition in Thailand: A Legal and Policy Review." *UNDP*, pp. 41-42.

<sup>30</sup> "นักเรียนแล้ว ไล่ ศษ. ปมแก็งเบียด ทรงผม-แต่งกายตามเพศสภาพ ล้น หลอกกลาง" ["Bad Students" responded Ministry of Education regarding hairs, uniform and gender identities policy saying they are irrelevant]. 2020. BrightTV. <https://www.brighttv.co.th/news/politics/bad-student-hair-gender> (Accessed on 25 March 2021).

<sup>31</sup> Olivier, S. and Thurasukarn, O. 2018. "Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTQ+) Youth in Thailand: Exploratory Research Report." *Save the Children*, pp. 8.

<sup>32</sup> Inputs from Children Consultation.

<sup>33</sup> Inputs from Children Consultation.

*"I am afraid that I will not be able to find a job because of who I am."*  
Sharing from a transgender girl in Phayao

26. Although the Gender Equality Act of 2015 prohibits gender-based discrimination, transgender and gender-non-conforming youth and adults still struggle with employment opportunities. An audit of employment discrimination on the basis of gender identity in Thailand revealed that when applying for jobs, cisgender applicants receive 24.1% more positive responses than trans applicants despite equal qualifications and experiences<sup>34</sup>. Many transgender people live in this reality as demonstrated in August 2020, a young transgender woman's job application to a cosmetic company was abruptly denied with a response, "Sorry, we only accept women."<sup>35</sup> Witnessing and experiencing these forms of discrimination, young LGBTIQ+ individuals' confidence and opportunities in employment are likely to be impacted.
27. Religion plays a huge role in shaping stereotypes, and to a certain degree, in legitimizing discriminatory acts. This leads many parents to not accept their child's sexual orientation or gender identity. In some cases, children are forced into monkhood in the hopes that the monastic life will cure their child of immoral sexual tendencies, teach them to control their sexual appetite and reshape their sexuality<sup>36</sup>. Child-consultants from Chiang Rai shared that being LGBTIQ+ is considered an insult to religious beliefs. This is also the case for children coming from ethnic communities: "Ethnic peoples do not accept LGBTIQ+ people, too. They need to separate themselves, migrate to the city to express themselves<sup>37</sup>."
28. There are a number of issues plaguing LGBTIQ+ children, which disrupt their basic way of life. Child-consultants in Chiang Mai shared, "the use of restrooms has also been a problem. They believe that LGBTIQ+ peoples are not fully able to use the toilet of their choice."

#### *Recommendations*

- Ensure employment opportunities are made easily available and accessible to young LGBTIQ+ people through building understanding on SOGIESC in the workforce and effectively implement Gender Equality Act of 2015.
- Take actions to build understanding on SOGIESC and eliminate biases and prejudices at the community level.

#### ***Battling the Adverse Effects of Cyberspace***

*"LGBTIQ+ people get insults on Facebook. People constantly commented, asking me why I am not dating men and who is going to take care of me when I'm old. I am judged because my relationship is different from 'ordinary people.' This is making me feel bad."*  
Sharing from Phayao

29. The internet has not only become a basic commodity, but is also viewed by many as a human right. Children today are heavily reliant on technologies for communication, learning and self-expression. In rural areas, the internet is still a difficult commodity to access. Furthermore, child-consultants in Chiang Rai expressed that "social media should be used freely, but is prohibited for many." This is also the case in ethnic communities located in Chiang Mai. Although the internet can be useful for LGBTIQ+ children to connect with others and feel supported, findings suggested that the internet has also perpetuated inequality and discrimination against young LGBTIQ+ people in Thailand.
30. Cyberbullying is rampant, and has severe effects on children, particularly those who are part of the LGBTIQ+ community. Children from Phayao reported that "people online posted bad comments and they cannot accept what we are." Moreover, some of them have fallen victim to gossiping and spread of pornographic content. In Chiang Rai, there are cases where children received pornographic videos and stateless children are then tricked into sending pornographic videos in exchange of Thai nationality. In Yala, many children

<sup>34</sup> Winter, S., Davis-McCabe, C., Russell, C., Wilde, D., Chu, T.H., Suparak, P. and Wong, J. 2018. "Denied Work: An audit of employment discrimination on the basis of gender identity in Asia." Asia Pacific Transgender Network and United Nations Development Programme.

<sup>35</sup> Mahavongtrakul, M. 2020. "Raising the Pride flag." Bangkok Post. <https://www.bangkokpost.com/life/social-and-lifestyle/1977351/raising-the-pride-flag> (Accessed on 25 March 2021).

<sup>36</sup> UNDP and USAID. 2014. "Being LGBT in Asia: Thailand Country Report." *UNDP*, pp. 31-32.

<sup>37</sup> Inputs from Children Consultation.

are bullied online for the way they look. They also shared that there is lack of safe spaces for counselling of children victims of online abuse. The internet should facilitate a child's aspiration to be oneself and connect to the outside world. However, cyberspace has aggravated conditions of those already pushed to the margins.

#### *Recommendations*

- Take measures to protect children from bullying and eliminate child pornography in cyberspace
- Promote digital literacy amongst children, specifically those living in rural and remote areas

#### ***Stateless Children with diverse SOGIESC***

31. Children, particularly from ethnic communities and rural areas as well as those who lack legal documentation and status in Thailand, assert that spaces for participation are not fully available and accessible. This is all the more a concern amongst LGBTIQ+ children, where opportunities are more limited.

*"A young 'katoey'<sup>38</sup> wants to take classes in cosmetic or dressmaking but no one supports her. Her family disagrees and on top of that, the law does not allow. She may be able to do well but certain jobs are restricted to those with Thai citizen only"*

Sharing from Chiang Mai

32. The reflection above highlighted the intersectionality due to lack of acceptance and legal status. Based on findings from the consultations, social conditions exist that prevent children who are living on the margins of society from fully enjoying not only their SOGIESC rights, but also their basic rights and freedoms. Voices from Northern Thailand stress the need to address statelessness amongst children. In terms of acquiring education, stateless children<sup>39</sup> cannot access scholarships or loans for schooling/university. This ultimately leads to limited opportunities for growth, learning and employment. Moreover, many stateless families with children do not go to healthcare facilities because due to the high costs without health insurance.

33. In the second UPR cycle, Thailand has accepted two recommendations to ensure birth registration<sup>40</sup>. In 2016, the Cabinet approved two resolutions to (1) grant foreign children born in Thailand the right to legally stay in Thailand in order to prevent them from being criminalized as illegal migrants and (2) provide a legal pathway for foreign children born in Thailand to apply for Thai nationality. Nonetheless, many children who were born in Thailand could not obtain legal status due to complicated and costly processes. LGBTIQ+ children without legal status are also impacted as they had to hide themselves in the communities. If they are exposed, they cannot leave the communities due to travel restriction among undocumented people.

#### *Recommendations*

- Ensure that all children born in Thailand are registered and granted citizenship notwithstanding one's SOGIESC, disability, geographic location, and economic status.

#### ***Feeling the Wrath of COVID-19***

*"I live in the village in Fang Village in Chiang Mai. I come from a poor ethnic group. COVID-19 made our life much more difficult. Many people lost their jobs and sources of income. We did not get any remedies from the Thai government because I don't have any IDs and social insurance. We know that there is a policy for remedy, but we cannot access it. This money is from our tax. We deserve to enjoy benefits and rights. The government should provide welfare to everyone, including ethnic groups and people living at the margins."*

Sharing from Chiang Mai

34. COVID-19 has changed how people throughout the world live their lives. It has exacerbated vulnerabilities, restricted freedoms, and exacerbated inequalities. The securitization of the pandemic impacted many,

<sup>38</sup> 'Katoey' in Thai is transgender girl/woman.

<sup>39</sup> According to Chiang Mai Child-consultants, around 70,000-100,000 students have G status (or those who have stateless identities) in Thailand.

<sup>40</sup> A/HRC/33/16 - Para. 158.56 and A/HRC/33/16 - Para. 158.57

specifically children, from claiming their rights . This pandemic has exposed gaps in the scope of the right to public health amid the state of emergency in Thailand.

35. Children in Thailand feel a great unease from this health emergency. According to an online survey conducted by Unicef, the Children and Youth Council of Thailand, the United Nations Development Programme and the United Nations Populations Fund, more than eight in 10 young people in Thailand were deeply worried about the prospects of economic insecurity in their homes due to the COVID-19 pandemic. Many of children’s mental health were negatively impacted as they faced uncertainty regarding their education and future. Furthermore, LGBTIQ+ children and youth have to hide themselves, adding extra stress and affecting mental health.<sup>41</sup>
36. According to a statement released by ILGA-ASIA (The International Lesbian, Gay, Bisexual, Trans and Intersex Association-ASIA) from Bangkok, there is a need to protect “LGBTIQ+ young people and adolescents living with unsupportive families during quarantine, lockdown or curfew. Moreover, LGBTIQ+ youth and adolescents whose families or legal guardians are not supportive of their sexual orientation, gender identity and expression, and sex characteristics, are forced to stay at home. They are subjected to an increased risk of domestic violence, family violence, sexual abuse, psychological abuse, discrimination, bullying and other forms of violence and harassment during this period. There is also a lack of online support available<sup>42</sup>.”
37. Child-consultants also reported that their education is compromised due to the COVID-19 pandemic. Some children are in an environment that is not conducive to learn online as some do not have access to any device nor stable internet connection. Moreover, they are pressured to take standardized tests, which they are not ready due to limited learning time and limited access to quality education.

*Recommendations*

- Ensure support for all marginalized children and family who are impacted by the pandemic notwithstanding one’s SOGIESC, nationality, geographic location, and economic status.

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<sup>41</sup> UNDP. 2020. “Youth Co:lab Thailand: The Catalogue of Process and Solutions.” *UNDP*, pp.11.

<sup>42</sup> “Apr 24 Joint statement on LGBTIQA youth in quarantine.” 2020. ILGA ASIA. <https://www.ilgaasia.org/news/2020/4/24/joint-statement-on-lgbti-youth-in-quarantine>. (Accessed on 25 March 2021).