

Kathoey:

Transgendered and Transvestite Men in
Thailand

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I. Executive Summary

Kathoey— the Thai word for transgendered and transvestite men¹ – exist in a paradox that is exceedingly Thai: they live in a society that is both accommodating and denying of their way of life. Thai culture, while valuing non-confrontation and accepting tremendous private individuality,² still continues to press that kathoey publicly conform. Within this context, though Buddhism and the law do not outwardly condemn or prohibit kathoey behavior, both social norms and the Constitution incompletely protect kathoey rights. Thus, problems related to a kathoey's recognized gender arise not from direct intolerance or violence – as experienced in many other countries – but from passive, everyday discrimination and a lack of proactive efforts to codify kathoey legal status and rights. The Thai government could take great strides to rectify this problem by recognizing a third-gender category that covers many of the concerns that are neither male nor female, but uniquely kathoey.

II. Background

Though some anti-kathoey intellectuals in Thailand have sought to denigrate kathoey by associating transgenderism with westernization and

¹ This term can also include female-male transgendered and transvestite individuals, as well as homosexuals of both gender; however, *kathoey* is commonly used in Thai media and literature to describe mainly male-female transgendered and transvestite individuals. This paper uses the latter definition.

² Matzner, Andrew. *In Legal Limbo: Thailand, Transgendered Men, and the Law*. 14 Oct. 2005. <http://home.att.net/~leela2/inlegallimbo.htm>.

disloyalty to Thailand,³ recorded understanding and (limited) acceptance of transgenderism in Thailand dates back several hundred years, as demonstrated by various Buddhist texts.⁴ Traditionally, Thai Buddhist accounts of creation recognize three genders – the male, the female, and the misgendered/hermaphrodite.⁵ These genders, like all things in Buddhism, are impermanent in the cycle of rebirth – a woman can be reborn as a man, a man as a hermaphrodite, and any other scenario depending upon karma. A kathoey cannot achieve enlightenment in this life, but neither can women nor many other men.⁶

Because of the strong influence of such Buddhist theories, Thais widely see kathoey as being born as a kathoey. This is both a positive and a negative: on the one hand, such a philosophy means that most Thais do not condemn kathoey because such a situation is seen as a result of previous karma; on the other hand, kathoey are not seen as equal to men and may be portrayed as an example of an undesirable reincarnation.⁷ Thus, unlike in western cultures, a

³ Sinnott, Megan. Toms and Dees: Transgender Identity and Female Same-Sex Relationships in Thailand. Honolulu: University of Hawaii Press, 2004. 188.

⁴ Jackson, Peter. Male Homosexuality and Transgenderism in the Thai Buddhist Tradition. 14 Oct 2005. <http://www.enabling.org/ia/vipassana/Archive/J/Jackson/homoBuddhaJackson.html>.

⁵ Sinnott, Megan. Toms and Dees: Transgender Identity and Female Same-Sex Relationships in Thailand. Honolulu: University of Hawaii Press, 2004. 26.

⁶ Jackson, Peter. Male Homosexuality and Transgenderism in the Thai Buddhist Tradition. 14 Oct 2005. <http://www.enabling.org/ia/vipassana/Archive/J/Jackson/homoBuddhaJackson.html>.

⁷ "Fake of Nature, Ladyboys in Bangkok." Bangkok Recorder. 16 Sept. 2005. http://www.bangkokrecorder.com/?p=redakt.artikel_detail&ID=&ArtikelID=108.

transvestite man in Thailand is not seen as per se ‘confused’ or ‘mentally challenged’⁸ – he’s simply suffering from a karmic punishment.

This mixed blessing is made even more ambiguous by the blending of Buddhist beliefs on homosexuality with theories from Western genetics. The idea of a so-called ‘gay gene’ has a strong pull in Thailand, as it reinforces the belief that kathoey are born differently.⁹ This addition to Thai thought creates the concern that the spiritual construct of three genders is beginning to give way to westernized sexual concepts of heterosexuality and homosexuality.¹⁰ With this, it is not entirely clear if Thailand’s passive acceptance of kathoey will begin to decline in the future, should kathoey lose their status as a naturally-occurring third gender.

Yet despite this potential for mass intolerance, Thailand has the largest transvestite and transgendered community of anywhere on earth,¹¹ as well as a reputation for being one of the most tolerant countries in the world, in terms of freedoms allotted to transgendered and transvestite individuals. Though they are a minority, transgendered and transvestite Thais are often very visible in everyday life – walking down the street, working in a restaurant, or even being

⁸ Though Jackson and Sinnott both adamantly support this as a general precept of Thai culture, the military nonetheless lists the reason for discharges based on transgenderism and transsexualism as ‘mental defect.’

⁹ Sinnott, Megan. Toms and Dees: Transgender Identity and Female Same-Sex Relationships in Thailand. Honolulu: University of Hawaii Press, 2004. 28.

¹⁰ Sinnott, Megan. Toms and Dees: Transgender Identity and Female Same-Sex Relationships in Thailand. Honolulu: University of Hawaii Press, 2004. 26

¹¹ Winter, Sam. Why are there so many kathoey in Thailand? 14 Oct. 2005.

http://web.hku.hk/~sjwinter/TransgenderASIA/paper_why_are_there_so_many_kathoey.htm.

depicted in popular movies such as *Iron Ladies*.¹² Transgender beauty contests are very prevalent and accessible, as is the surgery that makes participation possible. For as little as US \$1600, males can legally undergo gender reassignment procedures with neither the therapy nor secrecy demanded by doctors in other nations.¹³

Even when compared to supposedly tolerant nations such as the United States, Thailand has very few cases of hate crimes committed against transgendered and transvestite individuals.¹⁴ Culturally, this stems from the fact that, in many cases, parents and loved ones of kathoey are accepting of the decision to 'present' as a transvestite or undergo male-female surgery.¹⁵ As for the male partner of a kathoey, they are often seen as still being 'straight,' as they are fulfilling gender norms for heterosexual males by being the masculine male in the relationship.¹⁶ In this context, it is not surprising that some men publicly boast about their relationships with beautiful, male-female transgendered

¹² Horn, Robert. "Sporty Little Number." *TIME Asia* 27 March 2000: Vol. 155 No. 12. <http://www.time.com/time/asia/magazine/2000/0327/thai.transsexualfilm.html>.

¹³ "Fake of Nature, Ladyboys in Bangkok." *Bangkok Recorder*. 16 Sept. 2005. http://www.bangkokrecorder.com/?p=redakt.artikel_detail&ID=&ArtikelID=108.

¹⁴ Winter, Sam. *Why are there so many kathoey in Thailand?* 14 Oct. 2005. http://web.hku.hk/~sjwinter/TransgenderASIA/paper_why_are_there_so_many_kathoey.htm.

¹⁵ "Fake of Nature, Ladyboys in Bangkok." *Bangkok Recorder*. 16 Sept. 2005. http://www.bangkokrecorder.com/?p=redakt.artikel_detail&ID=&ArtikelID=108.

¹⁶ Sinnott, Megan. *Toms and Dees: Transgender Identity and Female Same-Sex Relationships in Thailand*. Honolulu: University of Hawaii Press, 2004. 30.

pageant winners.¹⁷ For Thai kathoey, the freedom to love is scarcely limited or condemned.

However, such freedoms should not be construed as complete social acceptance or tolerance. While the story of the transgendered volleyball team was a hit at the box office, these athletes were not allowed to play on the national team.¹⁸ Similarly, while the legal system does not deny kathoey the right to work or to attend universities, it has often been slow to address accusations that private organizations have done just that. In 1996, when a transgendered student was found guilty of murdering a classmate, the national teacher's college prohibited the admittance of gay men.¹⁹ This decision was later reversed in the Thai courts, but it is not wholly unique. Last year, while no mandated directive was given, the government formally requested that the media reduce its depictions of gay, transgendered, and transvestite men in film and television.²⁰ In these cases, Thai culture and the law were very permissive yet not very protective.

¹⁷ "Fake of Nature, Ladyboys in Bangkok." *Bangkok Recorder*. 16 Sept. 2005.

http://www.bangkokrecorder.com/?p=redakt.artikel_detail&ID=&ArtikeIID=108.

¹⁸ Horn, Robert. "Sporty Little Number." *TIME Asia* 27 March 2000: VOL. 155 NO. 12.

<http://www.time.com/time/asia/magazine/2000/0327/thai.transsexualfilm.html>.

¹⁹ Matzner, Andrew. *Transgender in Thailand: Paradise Not*. 14 Oct. 2005.

<http://home.att.net/~leela2/paradisenot.htm>.

²⁰ *Thai Government to Ask TV Stations to Reduce Gay Portrayals*. 14 Oct. 2005.

<http://www.sodomylaws.org/world/thailand/thnews003.htm>.

III. Current Situation

Given such a history of laissez-faire tolerance, kathoey in Thailand are in many ways more fortunate than their transgendered and transvestite counterparts in other nations. However, kathoey still routinely face discrimination and in no situation is this discrimination more acutely felt than in the controversy surrounding the right of kathoey to change their gender. In this case, post-surgery transgendered males often find themselves trapped in a legal framework that doesn't comprehend their unique situation. In every sense, these individuals are visibly and anatomically female, yet the government will not allow them to change their legal documents to reflect this new fact. Such a mindset creates many, potentially unforeseen, complications.

First and foremost, as these post-surgery transsexuals are still seen as legally male, this means that laws which protect other females do not apply to them – most importantly rape laws. Under Section 276 of Thailand's Penal Code, only a woman can be raped.²¹ Thus, regardless of the trauma sustained and whether or not the attacker thought the kathoey was a woman, she cannot press rape charges against her attacker because a male-female transsexual is not legally a woman.

²¹ Matzner, Andrew. In Legal Limbo: Thailand, Transgendered Men, and the Law. 14 Oct. 2005. <http://home.att.net/~leela2/inlegallimbo.htm>.

However, the added insult to this is that these post-surgery transsexuals are not seen as completely male either. Under Thai law, all males are required to report for examination for military service at the age of 21;²² those with obviously female features (i.e. breasts) are automatically disqualified from service and listed as unfit for duty due to ‘mental defect.’²³ Kathoey then have to carry this not only as a social stigma but also a record that follows them to every job they apply for, potentially blocking them from future employment.²⁴

The final blow of such a rigid gender policy is that katoey are not allowed to formally marry men. Despite overwhelming tolerance for homosexuality in the private sphere, Thailand will not give transvestitism or transgenderism a government sanction.²⁵ Sensational stories of katoey couples and homosexual marriages may be fine for Thai newspapers, but are viewed questionably when discussed as being a recognized union. Given this, it is arguable that despite how tolerant many Thais may be, one truth for Thai culture is that many Thais simply cannot see katoey as fully equal.

Though the 1997 Constitution nominally recognizes all Thais as equal and provides a mechanism for addressing discrimination, so far challenges

²² As of last year, the military has changed this policy so that transgendered individuals have the opportunity to be exempted from the examination in the first place. However, it is not clear what will happen with these older reports.

²³ "Fake of Nature, Ladyboys in Bangkok." *Bangkok Recorder*. 16 Sept. 2005. http://www.bangkokrecorder.com/?p=redakt.artikel_detail&ID=&ArtikelID=108.

²⁴ This dilemma also applies to transvestites who, although not completely female, may have undergone hormone treatments to make themselves appear more feminine and develop breasts.

²⁵ Winter S , Udomsak N. "Male, Female and Transgender : Stereotypes and Self in Thailand." *International Journal of Transgenderism*, Vol. 1 No 1. http://www.symposion.com/ijt/ijtvo06no01_04.htm

brought by kathoey have frequently failed. In these attempts, it is often that case that a legal appeal failed either because the court ruled against them or the cumbersome nature of the process has led appellants to not complete all the steps involved in an appeal.²⁶ Making the process even more daunting is the fact that not only is the process relatively untested but that no national lobbying groups exist to aid individuals in an appeal.

One solution to these problems that is very popular with western, human-rights organizations is for the Thai government to permit kathoey to legally change the gender recorded on their official documents. However, this solution is highly problematic and potentially unacceptable in Thailand. Though concepts of impermanence do permit for a fluid concept of gender across time, legal gender is extremely rigid. For the government to accept such a proposal is not only highly unlikely, it is distinctly un-Thai.

However, a Thai-twist on this concept could be achieved through the legal creation of a third-gender category roughly understood as “transsexual.” Such a solution would be in-lines with past efforts at reconciling transgendered concerns, similar to what one vocational school in Thailand did when it introduced transgendered bathrooms.²⁷ Though such a solution still carries negative connotations of otherness, it permits the Thai government to support

²⁶ Matzner, Andrew. *In Legal Limbo: Thailand, Transgendered Men, and the Law*. 14 Oct. 2005. <http://home.att.net/~leela2/inlegallimbo.htm>.

²⁷ Shapiro, Ben. *I Thought Urinals Were For Men!!* 14 October 2005. <http://www.townhall.com/opinion/columns/benshapiro/2004/06/23/12131.html>.

a response that is both understanding of historical beliefs and someone conservative in preserving the definition of male and female in the public sphere. For the Thai government to adopt this policy could be a step in the right direction.

Sans such a favorable government response, another option would be for further grassroots organization of kathoey into support groups – something that has begun to immerge in recent years.²⁸ Though these groups have been created primarily for support, such organizations could also be a powerful mechanism for strengthening their identity as a minority, as well as asserting kathoey's identity as patriotic Thais. By following and replicating the example set by Anjaree – a group formed by Thai lesbians – kathoey would not have to rely on an administration that has tried to crack down on their rights to provide them with further freedoms.

IV. Scenarios for the Future

The next five years have the potential to dramatically alter the status and debate over the kathoey in Thailand. Here, the interaction between the Thai people and the courts is key. To date, use of provisions under the 1997 Constitution to object to de jure and de facto discrimination against kathoey

²⁸ Matzner, Andrew. Transgender in Thailand: Paradise Not. 14 Oct. 2005. <http://home.att.net/~leela2/paradisenot.htm>.

has been extremely limited and rarely successful. However, given the lack of developed laws to protect kathoey rights, the courts perhaps provide the best outlet for legal and social change – and one successful appeal could lead to a watershed of appeals for previously discouraged kathoey.

An important offshoot to follow is the potential development of NGOs and lobbying groups in Thailand. Despite their technical potential for enormous growth, it still remains unclear whether this option will find credence in Thailand. Because violence against kathoey is not overwhelming prevalent and because so many rights are already afforded to them, transvestites and transgendered individuals in Thailand have not experienced the same motivation to demonstrate that their counterparts in other nations have experienced.

Whether or not such groups will be able to get off the ground in Thailand will be very dependent on whether kathoey can overcome their previous hesitation to engage in the political and legal aspects on this debate. They will need to not only do this, but actively work to shape their own image as rational, respectable and patriotic Thais. If they are willing and able to do this, we may see not only a rise in the number of constitutional appeals, but also in the number of Thais publicly demanding greater kathoey rights.

Besides kathoey individuals, another key player in shaping the future of kathoey identification is the media. The media in Thailand have long been a

source of sensationalized information about kathoey in Thailand, as well as a mechanism for increasing public awareness. While it is impossible that the kathoey will disappear from the public sphere, measures to reduce the portrayal of transvestites and transgendered individuals in the media have increased in recent years. This creates both potential problems and benefits. Should the media reduce its depictions of kathoey and gay men, it may be easier for new groups to shape the public image of kathoey, as it will not have to compete with such sensationalism and stereotypes. However, at the same time, should the media comply, it is possible that films in the vein of *Iron Ladies* will vanish from the Thai cultural landscape and lead to further ignorance about kathoey.

Finally, another important variable to follow will be the role of the government in legitimizing or delegitimizing kathoey claims on gender. The steps taken by the government in the 1997 Constitution to recognize and protect equal rights were momentous steps in Thai history – though it may still be questionable to what extent the government thinks equality can actually be achieved for kathoey and others. Recent derogatory statements against kathoey, as well as an almost total lack of laws designed to govern the unique situation of transvestites and transsexuals suggests that the government's commitment is less than total. However, though the government may be the critical player in this situation who has the potential to do the most harm, the government may

still yet play a positive role by remaining somewhat ambivalent towards kathoey in general or even proactively taking steps to codify their legal standing.

Ultimately, for the kathoey in Thailand, the next five years do not hold a silver bullet that will create total acceptance for transvestites and transgendered individuals. While both the past and the present offer hopeful clues that Thailand can be tolerant and accommodating in many ways, Thai culture is still hesitant about recognizing the right to total public individualism. Though kathoey may be seemingly every-present in the media, daily life, and the public discourse, they still remain only a small minority in Thailand and it unlikely that their numbers will substantially change. Absent a shift in current trends, the situation for kathoey in Thailand will likely remain the same as it has always been: often permissive yet seldom protective.

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