

# Constitutional Court Ruling No. 20/2564

CONSTITUTIONAL COURT OF THAILAND

*Translated by Chalermrat Chandranee*

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## **Translator's Introduction**

Chalermrat Chandranee

The Constitutional Court of Thailand, consisting of nine male judges, unanimously decided on 17 November 2021 that Section 1448, a provision in the Civil and Commercial Code stipulating that a marriage shall only be between a man and a woman was constitutional. This case began when the two Petitioners, who are both female as assigned at birth, attempted to register their marriage at their local district office.

Section 1448 stipulates that, "A marriage can take place only when the man and woman have completed their seventeenth year of age. But the Court may, in case of having appropriate reason, allow them to marry before attaining such age."

On 15 February 2020, the two Petitioners went to the Bangkokkoyai District Office in the capital city of Bangkok to register their long-standing relationship as a marriage. But the Registrar refused their request and cited Section 1448 as the basis for the rejection. Citing the Registrar's rejection of their application for marriage registration, the two Petitioners argued that Section 1448 was contrary to or inconsistent with several principles under the Constitution, including those regarding the limitation of rights or liberties of persons and the equality before the law. The Court ruled, in essence, that the provision stipulating that a marriage shall only be between a man and a woman was in accordance with the state of nature and long-standing custom of Thailand. In making this argument, the Court advanced a series of concerning, homophobic and potentially very damaging arguments about LGBTQIA+ people. Three of these arguments, and the language with which they were made, in particular, are important to highlight.

The Court observed that marriage between people with gen-

der diversity might not be able to create as a delicate bond as that between a man and a woman, so it should be reserved solely for couples of male and female, while people with gender diversity should be protected under a separate law, not by the Civil and Commercial Code which was the main law. The Court wrote that, "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**" (emphasis added).

Moreover, the Court asserted that sex at birth was divided by nature and could not be chosen and that the law had to be able to distinguish between males and females at first in order to provide equality. The Court wrote that, "**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.** Similarly, when the State or the legislator discovers people with different sexual ways who are encroached because of prejudice, the State or the legislator can impose a specific protection to protect people whose gender do not correspond their sex at birth or people with gender diversity, which is a specific group, as an exceptional case" (emphasis added).

In addition, as the relevant laws confer upon male-and-female spouses with several welfare benefits based on their sex, eliminating a condition regarding sex in marriage registration and expanding it to include couples of same sex would cause disturbance to the public. The Court wrote that, "Moreover, if sex is not specified for marriage, **people who are not people with gender diversity (LGBTQI) may apply for marriage registration to benefit from welfare of the**

**State or tax deduction.** This may affect the security of the State or public order or good morals of the people” (emphasis added).

Finally, the Court also raised the point that people of same sex were not prohibited from spending their lives together or having sexual intercourse. Neither are they prohibited from arranging a wedding ceremony or entering into any civil agreement regarding their property. Consequently, the provision stipulating that a marriage shall only be between a man and a woman, in the Court’s view, is not contrary to or inconsistent with the Constitution in any aspect. However, the Court ended its decision with a recommendation for the National Assembly, the Council of Ministers, and the relevant State agencies to consider proceeding to enact a law for the protection of people with gender diversity as appropriate.

This ruling was first disseminated in Thai via the Constitutional Court of Thailand’s website on 2 December 2021. This translation was initially shared via the personal Facebook account of the translator on 5 December 2021. The version disseminated here by Justice in Translation includes the addition of this introduction, and aims to provide the basis for a wide-ranging discussion and debate among English-reading audiences concerned with comparative questions of constitutional law, LGBTQIA+ rights, and citizenship.

Constitutional Court Ruling

(State Emblem)

**In the Name of the King**

**Constitutional Court**

Decision No. 20/2564

Case No. 30/2563

17 November B.E. 2564 [C.E. 2021]<sup>1</sup>

Central Juvenile and Family Court, Petitioner

Re: Is the Civil and Commercial Code section 1448 contrary to or inconsistent with the Constitution, section 25, section 26, and section 27, paragraph one, paragraph two, and paragraph three

The Central Juvenile and Family Court submitted an Objection of both Petitioners (Miss Puangpetch Hengkam, No. 1 and Mrs. Permsup Sae-eung, No. 2) in the Civil Black Case No. YorChorPor 1056/2563 requesting the Constitutional Court to decide under the Constitution, section 212. The fact according to the Objection Notice of both Petitioners and supporting documents is concluded as follows.

Both Petitioners filed a motion with the Central Juvenile and Family Court requesting for an order accepting registration of marriage as both Petitioners are life partners with gender and sexual orientation as female falling for female, or persons with gender diversity spending lives as partners together for over 10 years in the manner of life partners

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<sup>1</sup> Buddhist Era (B.E.) is Common Era (C.E.) plus 543 years. B.E. is used in Thailand and C.E. years have been added in [ ] throughout the ruling.

having relationship, role, duty, and responsibility for each other as legal spouses. On 14 February 2563 [2020], both petitioners submitted an application for registration of marriage with supporting evidence thereof at Bangkokyai District Office, Bangkok. However, the Registrar of Bangkokyai District informed both Petitioners that, as they were of same sex, i.e. female and female, the registration of marriage could not be granted. This is because the Rule of the Ministry of Interior on Family Registration B.E. 2541 [C.E. 1998] stipulates that applications for registration shall be filled in, and the Family Register (Form KorRor 1) shall be recorded in the system wherein marriage shall only be between males and females by birth. Later on 25 February 2563 [2020], both Petitioners appealed against the order rejecting an application for registration and record of the Family Register and requested the Officer to grant marriage registration for them. On 17 March 2563 [2020], the Office of Bangkokyai District notified both Petitioners in written that it had submitted a written notification regarding the appeal with the Registrar of Bangkok for consideration and has received the appeal's result under Notice No. KorTor 5700/2699 dated 24 June 2563 [2020]. It was stated that the Registrar of Bangkokyai District refused to grant marriage registration as both Petitioners were of same gender. It was therefore not in accordance with the Civil and Commercial Code, section 1448. The appeal of both Petitioners was not valid and shall be dismissed.

Both Petitioners opined that the rejection of an application for marriage registration based on the fact that they are of same sex at birth and thus marriage registration cannot be granted under the Civil and Commercial Code, section 1448 is a dispute to their rights and liberties as prescribed by the Constitution and causes them injury. Human dignity, rights, liberties, and equality of persons are not protected under the Constitution to be equal before the law. They are discriminated and treated unfairly based on the ground of differences in sex due to the rules under the Civil and Commercial Code,

section 1448, the Family Registration Act B.E. 2478 [C.E. 1935], and the Ministerial Notification prescribed under the Family Registration Act B.E. 2478 [C.E. 1935], clause 3. This denies their opportunity to be granted marriage registration, which is a basic right all Thai people deserve, as same as other spouses who are females and males by birth. The rejection of an application for marriage registration is unconstitutional. Therefore, the act of the Registrar of Bangkokyai District that rejected registration for both Petitioners was an act that directly affected their rights and obligations. In view thereof, they submitted an Objection with the Central Juvenile and Family Court arguing that the Civil and Commercial Code, section 1448 is contrary to or inconsistent with the Constitution, section 4, section 5, section 25, section 26, and section 27 with the following reasons.

1. The Constitution of the Kingdom of Thailand B.E. 2550 [C.E. 2007], section 30 prescribed the word "gender" in the record of spirit of the Constitution that, as for "Persons are equal before the law and shall be protected equally under the law" and Discrimination on the ground of differences in "sex" shall be prohibited., apart from differences between males and females, they also referred to differences of people with sexual identity, or gender, or gender diversity. Therefore, the term "sex" in the Constitution of the Kingdom of Thailand B.E. 2560 [C.E. 2017], section 27, paragraph three includes prohibition against discrimination on the grounds of differences between people with sexual identity, or gender, or gender diversity different from their sexes at birth.

2. The Civil and Commercial Code, section 1448 is not in accordance with the general principle of limitation of rights and liberties of persons under the Constitution, section 26 and is contrary to the Rule of Law, under which the enactment of a law restricting rights and liberties of persons shall not unreasonably impose burden on rights and liberties of persons. However, the provision of the Civil and Commer-

cial Code, section 1448 confers upon the State's Officers a power to control lawfulness pertaining to formality, which affects lawfulness pertaining to substantiality. This affects the right to found a family, which is a basic right all Thai people deserve and life partners of same sex shall be protected the same as spouses in general. The spirit of the Constitution aims to protect human dignity, rights, liberties, and equality of people and leaves it as duties of the State to guard and protect the people so they can live in the State with dignity, pride, and value both for themselves and in living together with others. In addition, the provision of section 1448 stipulating that "A marriage can take place only when the man and woman have completed their seventeenth year of age..." is a law enacted in B.E. 2477 [C.E. 1934]. Nowadays, Thailand has enacted the Gender Equality Act B.E. 2558 [C.E. 2015], which is the law that protects rights, liberties, and equality of people with gender diversity under sections 3 and 17. The act of the Registrar of Bangkokyai District which refused to grant marriage registration to both Petitioners citing the Civil and Commercial Code, section 1448 is thus an unfair discrimination against people and people with gender diversity. It is contrary to or inconsistent with the Gender Equality Act B.E. 2558 [C.E. 2015] and international covenants which Thailand has signed and ratified, e.g. the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

3. Marriage is a formation of a social institution which is ancient basis of existence of the human race called family institution. In foreign countries, there are protection of rights of people with gender diversity, e.g. a law providing the right to marriage for people with gender diversity, or the right to access reproductive health services as equally as male-and-female spouses. Human's sex in terms of the right to marriage, therefore, cannot be considered using bodies as criterion. Specifying that humans have only two sexes, i.e. male and female, affects endorsement of rights and statuses of

people under laws that adhere merely to gender. This does not value emotions, feelings, desires, tastes, or differences within the state of mind of each individual.

The Central Juvenile and Family Court observed that both Petitioners objected that the Civil and Commercial Code section 1448 is contrary to or inconsistent with the Constitution, section 4, section 5, section 25, section 26, and section 27, and the Court will apply the said provision of law to the case. As there has never been the Constitutional Court Ruling regarding such provision, it submitted the said Objection with the Constitutional Court for consideration under the Constitution, section 212, paragraph one.

The preliminary issue is whether the Constitutional Court has the power to receive Objection Notice of both Petitioners under the Constitution, section 212, paragraph one. The Central Juvenile and Family Court submitted an Objection of both Petitioners requesting the Constitutional Court to decide whether the Civil and Commercial Code section 1448 is contrary to or inconsistent with the Constitution, section 4, section 5, section 25, section 26, and section 27. The said provision is the provision the Central Juvenile and Family Court will apply to the case. As both Petitioners objected with reasons that the said provision is contrary to or inconsistent with the Constitution, and there has not been the Constitutional Court Decision regarding this provision, it is in accordance with the Constitution, section 212, paragraph one. It is thus accepted for consideration. As for the part arguing whether the Civil and Commercial Code, section 1448 is contrary to or inconsistent with the Constitution, section 4 and section 5, since section 4 and section 5 are general provisions establishing protection principles regarding human dignity, rights, liberties, and equality of persons, as well as the Supremacy of the Constitution, without any term protecting rights or liberties in particular, the Constitutional Court is not required to decide this issue.

The Constitutional Court has considered the Objection of both Petitioners as well as the supporting documents and observes that this is a question of law and the evidence available is sufficient for consideration. Thus, it is not necessary to conduct an investigation under the Organic Act on Procedures of the Constitutional Court B.E. 2561 [C.E. 2018], section 58, paragraph one. The issue to be considered is whether the Civil and Commercial Code, section 1448 is contrary to or inconsistent with the Constitution, section 25, section 26, and section 27, paragraph one, paragraph two, and paragraph three.

Having considered the foregoing, the Court observes that the Constitution, section 25, section 26, and section 27 are provisions in Chapter III: Rights and Liberties of the Thai people. Section 25, paragraph one stipulates that "As regards the rights and liberties of the Thai people, in addition to the rights and liberties as guaranteed specifically by the provisions of the Constitution, a person shall enjoy the rights and liberties to perform any act which is not prohibited or restricted by the Constitution or other laws, and shall be protected by the Constitution, insofar as the exercise of such rights or liberties does not affect or endanger the security of the State or public order or good morals, and does not violate the rights or liberties of other persons." Paragraph two stipulates that "Any right or liberty stipulated by the Constitution to be as provided by law, or to be in accordance with the rules and procedures prescribed by law, can be exercised by a person or community, despite the absence of such law, in accordance with the spirit of the Constitution." Paragraph three stipulates that "Any person whose rights or liberties protected under the Constitution are violated, can invoke the provisions of the Constitution to exercise his or her right to bring a lawsuit or to defend himself or herself in the Court." Paragraph four stipulates that "Any person injured from the violation of his or her rights or liberties or from the commission of a criminal offence by another person, shall have the

right to remedy or assistance from the State, as prescribed by law." Section 26, paragraph one stipulates that "The enactment of a law resulting in the restriction of rights or liberties of a person shall be in accordance with the conditions provided by the Constitution. In the case where the Constitution does not provide the conditions thereon, such law shall not be contrary to the Rule of Law, shall not unreasonably impose burden on or restrict the rights or liberties of a person and shall not affect the human dignity of a person, and the justification and necessity for the restriction of the rights and liberties shall also be specified." Paragraph two stipulates that "The law under paragraph one shall be of general application, and shall not be intended to apply to any particular case or person." Section 27, paragraph one stipulates that "All persons are equal before the law, and shall have rights and liberties and be protected equally under the law." Paragraph two stipulates that "Men and women shall enjoy equal rights." Paragraph three stipulates that "Unjust discrimination against a person on the grounds of differences in origin, race, language, sex, age, disability, physical or health condition, personal status, economic and social standing, religious belief, education, or political view which is not contrary to the provisions of the Constitution or on any other grounds, shall not be permitted."

The preparation and codification of the Civil and Commercial Code in the past resulted from the notion that civil and commercial laws in force in that time were scattered. In order to be suitable for the era, prosperity, as well as commerce of the country, and to match various civilized countries, they should be compiled in one place and categorized. In the drafting process, the law drafting committee used foreign civil and commercial codes as guideline and largely took security, culture, and traditional way of life of the Thai society into its consideration. As for the Civil and Commercial Code Book IV on Family, it was first enacted under the Act Promulgating Provisions of Chapter IV of the Civil and Commercial

Code B.E 2477 [C.E. 1934] and has been in force since 1 October B.E. 2478 [C.E. 1935]. Subsequently, there was an adjustment by the Act Promulgating Provisions of Chapter IV of the Civil and Commercial Code Which Has Been Re-sorted B.E. 2519 [C.E. 1976], which has been in force until now. The Civil and Commercial Code, section 1448 stipulates that "A marriage can take place only when the man and woman have completed their seventeenth year of age. But the Court may, in case of having appropriate reason, allow them to marry before attaining such age." It is a provision prescribing 2 conditions of marriage, i.e. it must be a marriage between the "man and woman", and they must have completed their seventeenth year of age, except in the case where there is appropriate reason, the Court may allow them to marry beforehand. As for the meaning of marriage, it means an agreement between a man and a woman to voluntarily spend their lives together, to have a relationship as husband and wife for reproduction of the clan, to have a bond, and to help and support each other under moral, custom, religious doctrines, and laws of each society. It is the beginning of formation of family institution, which is the basic institution of society, for reproduction of new members of society and the beginning of creation of roles connected to other institutions of society. Marriage is, therefore, reserved for people who are male and female as assigned at birth in order for them to be lawful spouses or husband and wife. The term "sex" means biological characteristics used to categorize a group of humans into females and males, while "gender" means social characteristics and characteristics in terms of social psychology used as a basis to categorize a group of humans into being "feminine" or "masculine". The assertion of people with gender diversity that if they have the liberty to cohabit with anyone, they should be allowed to apply for marriage registration, is merely feelings and sexual satisfaction measured by expression or sexual role which are expressed as preferences. People with this kind of sexual satisfaction may be called people with gender diversity or sexual connection, or people born

with physical or mental conditions that do not correspond their sex since their birth or afterwards, e.g. people who like people of same sex (lesbian or gay), people who like both sexes (bisexual), and transgender people. This includes people who can fall for people of any sex or do not care about sex (queer) and people who have got reproductive organs of both sexes (intersex), etc. The remarks on these categorizations are all based on the concept of males and females.

Both Petitioners argued that the Civil and Commercial Code, section 1448, which stipulates that a marriage shall only be between a man and a woman, is a violation of rights and liberties of the people as well as human dignity and an unjust discrimination on the ground of differences in sex, which is contrary to or inconsistent with the Constitution, section 25, section 26, and section 27, paragraph one, paragraph two, and paragraph three. The Constitution lays down provisions guaranteeing and protecting rights and liberties of the people. The enactment of a law resulting in the restriction of rights or liberties of persons shall not be contrary to the Rule of Law, shall not unreasonably impose burden on or restrict the rights or liberties of persons and shall not affect the human dignity of persons. Nevertheless, the enjoyment of such rights and freedoms shall respect domestic laws, rights and liberties of others, as well as custom, religious doctrines, culture, and consequences that may arise to the society of that State or country. In addition, it shall not affect or endanger the security of the State or public order or good morals of people, and shall not violate the rights, liberties, or human dignity of other persons. The law is a tool for keeping people in the society living together peacefully. The foundation of law, in addition to be in accordance with the law of nature, is also in accordance with tradition and custom of each society. In order for the law to be sustainably enforceable, it must be accepted by and must not be contrary to the feelings of the people in respective countries, because different traditions and customs of each society is

the origin of different laws. Therefore, the law originated from tradition and custom of each country may be different. As regards marriage according to custom, way of life of the Thai society, precedents, and interpretation of laws of Thailand, the belief has been passed on that marriage can only be between a man and a woman. The Civil and Commercial Code, section 1448 is in accordance with the state of nature and long-standing custom. 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. Similarly, when the State or the legislator discovers people with different sexual ways who are encroached because of prejudice, the State or the legislator can impose a specific protection to protect people whose gender do not correspond their sex at birth or people with gender diversity, which is a specific group, as an exceptional case. This can be seen from the enactment of the Gender Equality Act B.E. 2558 [C.E. 2015] for the protection and guarding of rights for those discriminated on the grounds of sex and the promotion of equality between men and women, including people with gender diversity. At present, the Civil Partnership Bill B.E. .... and the Bill Amending the Civil and Commercial Code (... amendment) B.E. ...., which amends the relevant provisions of the Civil and Commercial Code to be in accordance with the Civil Partnership Bill B.E. ...., etc. is being proposed. Furthermore, the law does not compel every man and woman to get married. Persons have liberty to cohabit as husband and wife without being required to comply with the form of the law. Hence, the Civil and Commercial Code section 1448 does not restrict the liberty of the people with gender diver-

sity to cohabit. It does not comprise any term that restricts the right of the people with gender diversity to do any juristic act under the law, which may cause inequality in the society and affect the life of the people with gender diversity. Neither does it affect human dignity nor the Rule of Law. It is thus not contrary to or inconsistent with the Constitution, section 25 and section 26.

As regards the argument that the Civil and Commercial Code section 1448 is contrary to or inconsistent with the Constitution, section 27, the Constitution prescribes that persons shall be equal before the law and protected under the law equally. Men and women shall enjoy equal rights, shall not be subject to unjust discrimination on the ground of differences in sex, and have the liberty to live their lives under the principle of equality according to the provisions of the Constitution. This depends on the essential condition of persons, i.e. persons with the same essential facts shall be treated the same, whereas persons with different essential facts shall be treated differently. Moreover, equality of rights to found a family regarding sex of the spouses can be proceeded by prescribing a specific law in order not to affect the main law which has laid down the foundation of family institutions since former times. The Civil and Commercial Code Book V on Family prescribes that only men and women shall have the right to marry under the law. Although it seems to restrict the rights and liberties of persons, the Civil and Commercial Code, section 1448 is a law with the content and reason that is in accordance with nature (True law is right reason, harmonious (in agreement) with nature) as well as tradition and custom of the Thai society. Apart from a provision prescribing that only men and women shall have the right to marry under the law, there are other provisions which seems to restrict the rights and liberties of persons, e.g. a requirement that men and women who are to conclude a betrothal or to get married shall have completed their seventeenth year of age under section 1435 and section 1448,

property being Khongman and Sinsod shall be only in the case where a man propose a betrothal to a woman under section 1437, a prohibition that men and women who are blood relations shall not be married under section 1450, a prohibition of double registration under section 1452, and a prohibition that a widow shall not re-marry within three hundred and ten days under section 1453. In fact, such provisions are not restrictions of rights and liberties of persons, but it was prescribed on the basis of rationality. For instance, the prohibition that prohibits persons under 17 years old to conclude a betrothal and to get married is in accordance with natural physical condition. Khongman is in accordance with tradition and custom. As for the prohibition that prohibits men and women who are blood relations from getting married, in addition to being in accordance with tradition and custom, it may also affect the healthiness of the child. The prohibition that a widow shall not re-marry within three hundred and ten days is because of the period that she may be pregnant by her former husband. 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 regards, 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. To allow what is different to be not different is thus impracticable. With regard to marriage between men and women under the Civil and

Commercial Code, the state's welfare, e.g. maternity leave, ordination leave, and medical expense reimbursement, can be easily provided. If sex is not specified in such cases and there are a case of a husband claiming for cervical cancer treatment expense, a wife claiming for prostrate treatment expense, or a husband claiming for obstetric expense, sex must be proven and medical certificate will be required in every single case. What would occur would impose burden on the State and cause the rights of straight husband and wife who are the majority to be reviewed, resulting in the delay, obstacle, and unfairness. Moreover, if sex is not specified for marriage, people who are not people with gender diversity (LGBTQI) may apply for marriage registration to benefit from welfare of the State or tax deduction. This may affect the security of the State or public order or good morals of the people.

Furthermore, the current Constitution and laws do not prohibit people of same sex from spending their lives together or having sexual intercourse. Neither do they prohibit an arrangement for the wedding ceremony, entry into a life insurance specifying the life partner as a beneficiary, nor making a will bequeathing property unto the life partner. As for the property jointly earned, it is not prohibited from being co-owned. Regarding the argument of both Petitioners that the rights as spouses, e.g. to consent to medical treatment, to receive welfare as a spouse, to benefit from an insurance, to claim for compensation for wrongful acts, or to have rights as a statutory heir, were not conferred on them, such rights do not derive directly from the status of being married, but emerge according to what the laws prescribe. Thus, such issues can be solved by provisions of a specific law. This can be seen from the drafting of the Civil Partnership Bill B.E. .... which is to confer upon the people of same sex the rights to live their lives together as well as other rights. Therefore, it can be concluded that the Civil and Commercial Code, section 1448 was prescribed based on the nature of humans. It

maintains existence of the society as well as the tradition and custom that the society adheres to. This is an equal protection of rights and liberties of men and women under the law, does not constitute an unjust discrimination against persons on the ground of differences in sex, and does not violate the rights and liberties of other persons. It also promotes the security of the State and strengthen public order or good morals. It is thus not contrary to or inconsistent with the Constitution, section 27, paragraph one, paragraph two, and paragraph three.

Nevertheless, according to the context of the world society and the Thai society, the rights of persons regarding sexual status are accepted more widely. The State should have appropriate measures and encourage people with gender diversity to live their lives together by prescribing a specific law in order to grant rights to and to solve issues as well as problems in the lives of people with gender diversity.

With the aforementioned reasons, we hereby rule that the Civil and Commercial Code, section 1448 is not contrary to or inconsistent with the Constitution, section 25, section 26, and section 27, paragraph one, paragraph two, and paragraph three, with a recommendation that the National Assembly, the Council of Ministers, and the relevant State agencies should consider proceeding to enact a law for guaranteeing rights and duties of people with gender diversity as appropriate.

**(signature)**  
**(Worawit Kangsasiatiam)**  
**President of the Constitutional Court**

(signature)  
Twekiat Menakanist  
Judge of the Constitutional Court

(signature)  
Punya Udchachon  
Judge of the Constitutional Court

(signature)  
Wiroon Sangtian  
Judge of the Constitutional Court

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Noppadon Theppitak  
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Judge of the Constitutional Court

## ***About the Translator***

**Chalermrat Chandranee** is a lawyer with experience of practicing law in both private and public sectors. He also teaches as a special lecturer at the Faculty of Law, Thammasat University. He graduated with LL.B. (1st Class Hons.) from Thammasat University in 2019 and acquired his license to practice law in 2020. You may contact him via [chalermrat.chan@gmail.com](mailto:chalermrat.chan@gmail.com).