

# **“Thailand—A Queer H(e)aven?” & “Queering Misogyny” in the Contexts of Thai Constitutional Court Ruling against Same-Sex Marriage and the Roe v. Wade Reversal**

Monday 25 July 2022, by [SRIRATANA Verita](#) (Date first published: 19 July 2022).

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## **Part One: Thailand—A Queer Haven?**

In January 2020, the Tourism Authority of Thailand (TAT) launched a website as part of LGBT+ travel marketing outreach called #GoThaiBeFree. TAT posted a series of five video clips on social media showcasing LGBT+ couples enjoying the best that Thai tourism has to offer: exquisite food, elephant sanctuaries, beautiful temples, fancy hotels, exotic markets, pristine beaches and luxurious rooftop pools. The majority of LGBT+ persons depicted in the videos are non-Thais who are of a certain privileged class and wealth. “Pink baht” is clearly the agenda, embraced by some and sceptically questioned by many like Shane Bhatla, Transgender Program Manager at OUT BKK, who—as early as the start of the campaign—commented “But I think they need to look internally: what are their own citizens struggling with?” (Howell).

What Thailand’s own citizens are struggling with, indeed, is the tangible and visceral subject matter of this article and its video recording section. The image of Thailand as queer h(e)aven for LGBTQINA+ persons may persist on the international scale. However, on the domestic scale, such image has been increasingly questioned and challenged, especially with the Constitutional Court ruling on 17 November 2021, of which the wording reflects outdatedly patriarchal, deeply misogynistic and blatantly anti-LGBTQINA+ views.

### **Go Thai. Be (Less) Free. (under the Emergency Decree)**

The photographs below are stark contrasts to the romanticised visual presentation of smiling and sublimated LGBT+ couples as part of the Go Thai. Be Free. campaign. On 21 December 2021, 20 activists were summoned to Lumbini Police Station for having been charged with violation of the Emergency Decree for participating in the marriage equality rally on 28 November 2021 (“20 protesters charged with violation of Emergency Decree at marriage equality rally”).

The Emergency Decree, which was imposed throughout the country on 26 March 2020, has—to date— been extended 19 times (scheduled to expire on 30 September 2022) (KomChadLuek Online). It has been hijacked and misused to regulate and put public gatherings under surveillance as well as

arrest protesters, many of whom are students. As a political tool, this law restricts freedom of speech and expression among those who show dissent against and engage in criticism of the government. Apart from the fact that the Emergency Decree has been dispensed like “blank cheque”, as law enforcement officials are exempted from civil, criminal and disciplinary accountability, it has also been a hindrance to the fight for democracy, particularly the fight for LGBTQINA+ rights.

The statement made by representatives of the 20 activists comprises a defiant condemnation of the Tourism Authority of Thailand’s shameless exploitation of same-sex love. It is an expression of shock and dismay by the fact that taking part in a peaceful rally for marriage equality in the very country which promotes itself as equivalent to “queer h(e)aven” can be considered a crime (Matichon Online).

## **Part Two: “Queering Misogyny” in Thai Constitutional Court Ruling and Roe v. Wade Reversal**

The author of this article advocates for a queer feminist/feminist queer framework for understanding how the queer and feminist issues and perspectives can complement each other to reveal how misogyny can be transposed to the realm of anti-LGBTQINA+ discourse. She subscribes to the views of Mimi Marinucci who, in *Feminism Is Queer: The Intimate Connection between Queer and Feminist Theory*, insightfully propounds the idea of linking queer and feminist perspectives when it comes to tackling sexist bias:

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

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

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

However, the author of this article would like to propose that the currents of queer and feminist activism conjoin in one’s attempt to queer misogyny, or to place and situate misogyny in the context of LGBTQINA+ rights - in this case - that of Thailand’s Constitutional Court ruling on 17 November 2021. Queering the misogyny inherent in the ruling has become more relevant and insightful in light of the recent overturn of *Roe v. Wade*, where the United States Constitution ruled that the right to end a pregnancy was not found in the text of the Constitution, meaning that there is no guarantee for right to abortion. This article’s proposed framework will cease to confine marriage equality in Thailand to the exclusive realm of LGBT+ concerns and interests. Similarly, it will also cease to confine *Roe v. Wade* to the exclusive realm of women’s concerns and interests. The author’s analysis will demonstrate how both anti-feminist and anti-LGBTQINA+ kinds of oppression are inextricably

intersected.

Thailand's Constitutional Court ruled that section 1448 of the Civil and Commercial Code defining marriages as only between men and women was constitutional. This was an outcome of a petition filed by Permsap Sae-Ung and her partner, Puangphet Hengkham, who—having lived together for 11 years— had earlier attempted to register for marriage but to no avail.

Extracted from the Constitutional Court ruling in English translation are passages which reflect not only shameless dehumanisation of LGBT+ persons, but also discourses of misogyny where women's sole function as well as purpose in life, specifically marriage life, is to give birth:

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

...

Implication of equality between men and women is not to prescribe a law designating that men shall be women or women shall be men, because sex is divided by nature (an act of God). Sex at birth cannot be chosen. If there are some exceptions, they must be protected separately and specifically. Thus, providing equality between men and women is not to deem them the same, but to treat them correctly in accordance with their gender. In this 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 [emphasis added](13-15).

The Thai Constitutional Court ruling outdatedly normalises patriarchy, gender binary and the doctrine of separate spheres, where women are deemed the weaker sex and "angels in the house", not dissimilar to the underlying misogynist views which lead to stripping women away from their own agency over their choices and bodies as a result of the overturn of *Roe v. Wade*. The misogynist emphasis on the "delicate bond" between heterosexual couples, which is forged by and is burdened upon women's crucial role "to have children and maintain the race", is further enhanced by the normative and imperative phrase "according to nature". As it first appears to the eye, the ruling may seem to suggest systematic dehumanisation of women, reducing them to reproductive vessels. However, when read in the context of anti-LGBTQINA+ discourse, misogyny here can be seen as a mere foreshadowing of the more brutal dehumanisation, reduction and even erasure of LGBTQINA+ lives and dignity. Misogyny, according to Kate Manne in her seminal *Down Girl: The Logic of Misogyny*, does not always entail dehumanising women. On the contrary, misogyny is based on the notion that a woman, like the tree in Shel Silverstein's *The Giving Tree* (1964), is:

positioned as human givers when it comes to the dominant men who look to them for various kinds of moral support, admiration, attention, and so on. She is not allowed to be

in the same ways as he is. She will tend to be in trouble when she does not give enough, or to the right people, in the right way, or in the right spirit. And, if she errs on this score, or asks for something of the same support or attention on her own behalf, there is a risk of misogynist resentment, punishment, and indignation. (xix)

The limitation of such proposed notion by a thinker belonging to analytic feminist philosophy has been clearly acknowledged in the book: "There is also a risk of exempting individual agents from blame or responsibility for misogynistic behaviour" (xxi). However, the author of this article propounds that what many find controversial in Manne's analysis can be complemented when misogyny is "queered", or analysed as an initial process leading to further discrimination against LGBTQINA+ and even to full annihilation of – especially in the case of Thailand – their legal existence. The status of "giving tree" is not even conferred upon them by society.

In the case of the Thai Constitutional Court ruling, the wording extracted for this article clearly reveals the devastating implications of misogyny on LGBTQNIA+ persons, which lead to brutal dehumanisation of those whose gender and sexuality do not conform with heteronormative values and ideology. The ruling puts those who do not identify as cisgender heterosexual under erasure. This can be counted as epistemic violence, or violence exerted on the level of knowledge and discourses e.g. the coinage of words and categorisation of "good feminists" as opposed to "bad feminists" (in the Thai context, เฟมินิสต์เฟมทวิตส์ – for further detail, read Pattanun Arunpreechawat's "Debunking misconceptions: Feminism explained") adopted to submit women who are deemed "too vocal and radical" to silence.

In the case of the Roe v. Wade reversal, one does not need to look far into the future to see how the discourse of misogyny reflected in the decision can lead not only to physical detriment and death, but also to hermeneutic death, or the annihilation of the self which takes place "when subjects are not simply mistreated as intelligible communicators, but prevented from developing and exercising a voice, that is, presented from participating in meaning-making and meaning-sharing practices" (Medina 41). The LGBTQINA+ community in the United States will not only face problems concerning abortion access and transgender healthcare as well as overturn of same-sex marriage (Moreau), but also a metaphorical coverture, where they can be seen as reduced to the role of a wife, a feme covert, while the husband who subsumes the wife's independent legal existence is none other than the society of heterosexuals. This is such a transtemporal and transnational phenomenon.

## **Conclusion: Queer Feminists and Feminist Queers of the World (and Allies), Unite!**

We would like to end by inviting Thais and international community to engage in comparative queering of misogyny as doing so can unite feminist and queer theorists/activists (such divide should be as porous as it can be), and also allow us to engage transnationally. What happens in Thailand can also be understood in terms of what happens in the United States and beyond, and vice versa. We are indeed living in the same world. What we may think as other people's battles have always been ours. Then, whatever your nationality is and whether or not you identify as a feminist or an LGBTQINA+ person should never be the participatory ID or passport justifying your role in this global human rights movement.

Join in the fight, oh, for love's sake.

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