



THE RIGHTS OF INTERSEX PERSONS IN THAILAND

Brief Assessment of the Implementation of the 3rd Cycle UPR Recommendations

During the 3rd UPR Cycle, Thailand received **12 recommendations addressing Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC)**, of which it **accepted seven and noted five**. Not one of those recommendations named **sex characteristics** as a protected ground. They addressed sexual orientation and gender identity, and the State has used that ambiguity to avoid legislating for intersex persons while presenting itself as compliant.

This is a pattern rather than an oversight. In the 2nd Cycle, Thailand received 42 related recommendations and accepted 41 — **none explicitly addressed intersex persons or Intersex Genital Mutilation (IGM)**. In the 1st Cycle, intersex persons were absent altogether.

Five years on, the result is measurable: **no law prohibits medically unnecessary surgery on intersex children; no legal gender recognition framework exists; sex characteristics remain outside every anti-discrimination instrument; and no ministry collects data on the intersex population**. On 5 August 2026 the Government published a draft Gender Identity Recognition Act — a genuine advance, analysed under Challenge 1 below — but it is not yet law, and its most consequential provisions are left to be written after

The lesson for the 4th Cycle is precise: a recommendation that does not say "sex characteristics" will not reach intersex persons. Three cycles have demonstrated this.



0 UPR recommendations across the 2nd and 3rd Cycles explicitly addressed **intersex persons or sex characteristics**



0 laws prohibit medically unnecessary surgery on **intersex children in Thailand**

NATIONAL LEGAL FRAMEWORK



Constitution of the Kingdom of Thailand B.E. 2560 (2017) — sections 4 and 27; prohibits unjust discrimination on the ground of "sex", interpreted through a binary lens

Gender Equality Act B.E. 2558 (2015) — section 3 (scope); section 17(2) permits discrimination for welfare, religious rules or national security

Supreme Court Judgment No. 157/2524 (1981) — legal sex fixed at birth; no subsequent alteration

Department of Provincial Administration Regulation (reaffirmed 2012) — title change permitted only on proof of "normalising" surgery

Child Protection Act B.E. 2546 (2003) — best-interests standard; never applied to restrict intersex surgery

Marriage Equality Act (Civil and Commercial Code Amendment Act No. 24) B.E. 2567 — in force 23 January 2025

Draft Gender Identity Recognition Act B.E. — published for public consultation on 5 August 2026; not yet enacted



REALITIES ON THE GROUND

Challenges

Case, Facts, and Comments

Challenge 1: Intersex persons cannot obtain identity documents that record who they are

Thailand has no legal gender recognition framework. Supreme Court Judgment No. 157/2524 (1981) holds that legal sex is fixed at birth and cannot be altered, reasoning from a binary premise about reproductive capacity. That ruling remains good law.

The only avenue of relief is administrative and conditional: a 2012 regulation of the Department of Provincial Administration permits an intersex person to change their civil title only on proof of an intersex variation at birth and of subsequent "normalising" surgery. The State offers accurate documents in exchange for irreversible surgery.

Birth registration admits only "male" or "female". For a newborn whose sex characteristics are not typical, this operates as a deadline — a marker must be chosen within days — which in clinical practice feeds the pressure for early surgical assignment described in Challenge 2.

Misassignment at birth carries lifelong consequences. "Naviya", documented in the television programme *Kon Khon Kon* (2011), and "Ake", documented by BBC Thai (2020), were both registered female at birth on the basis of external genital appearance and developed male secondary sex characteristics at puberty. Both faced protracted legal and social obstacles because the State would not recognise their self-identified sex without their first passing through a pathologising medical and administrative process.

Parliament has twice declined to act. A Gender Recognition Bill was rejected by the House of Representatives on 21 February 2024 by 257 votes to 154. A civil society draft — the Self-Determination of Gender Identity, Gender Expression and Sex Characteristics Act, prepared by Intersex Thailand and promoted through the citizens' legislative initiative procedure — remains awaiting parliamentary consideration.

NEW DEVELOPMENT — Draft Gender Identity Recognition Act, published 5 August 2026

What the draft gets right: section 5 recognises the right to determine one's own gender identity; section 6 prohibits requiring surgery, hormone treatment or psychological treatment as a condition of recognition, ending the 2012 surgical precondition; section 11 permits an intersex variation to be recorded on the birth certificate; section 17 introduces a non-binary marker ("unspecified" / "X").

What must be fixed before enactment: section 7 conditions recognition on a "certificate of readiness" whose criteria are left entirely to a future announcement of the Minister of Public Health — a right exercisable only on production of a document another person must issue, under criteria not yet written, is not self-determination. Section 8(3) requires an order of the Juvenile and Family Court before a person already recognised may apply again. Section 22(2) permits differential treatment for "other legitimate reason" and provides it shall not be unfair discrimination — reproducing the very structure of Gender Equality Act section 17(2) that the Committee against Torture recommended Thailand remove in 2024.

Challenge 2: Intersex persons are operated on when they cannot consent, and abandoned when they can

In childhood. Medically unnecessary, non-consensual and irreversible surgical and hormonal interventions continue to be performed on intersex infants — clitoral reduction, vaginoplasty, gonadectomy, hormone therapy — not to address a threat to health but to make the child's anatomy conform to binary expectations. Thai medicine continues to classify intersex variations as "Disorders of Sex Development" (DSD).

In adulthood. The same system that intervenes without consent offers no pathway to care that is actually wanted. Intersex adults seeking surgery, hormone therapy or fertility support find no defined route, no trained practitioners and no coverage designed for them.

Surgery is institutionalised, not exceptional. A 2017 study at King Chulalongkorn Memorial Hospital examined sex assignment in 30 patients with atypical genitalia and recorded that a substantial number underwent procedures determined by physicians together with parents. Clinical guidance published at Siriraj Hospital in 2010 documents the same approach to intersex newborns. Intersex adults report extensive scarring, loss of sexual sensation, chronic pain, lifelong hormone dependence after gonadectomy, and learning only in adulthood what was done to them.

Clinical encounters as degrading treatment. One intersex individual, "S.", describes urologists who spoke to him disrespectfully and demanded to view his genitalia without clinical justification, leaving him feeling treated as an anomaly rather than a patient. Pakwilai Sahunalu, co-founder of Intersex Thailand, has documented how intrusive questioning and breaches of privacy concerning her menstruation caused severe distress and a lasting reluctance to seek medical assistance at all.

Partial progress, unconsolidated. Following a 2018 directive of the National Human Rights Commission, the National Health Security Office moved to bring certain intersex health services within universal health coverage.



REALITIES ON THE GROUND

Challenges

At every age. Non-therapeutic examination, intrusive questioning and breaches of confidentiality make attendance itself a risk. The rational response is avoidance, and avoidance of health care is not a private preference, it is a health outcome produced by State-administered systems.



Sections 13 & 23

would prohibit surgery on intersex children until they can personally consent.



Penalties: 6 months to 10 years' imprisonment.

Intersex Thailand and the Thai Association for Clinical Sexology and Sexual Medicine have integrated SOGIESC content into medical curricula at Thammasat University. Both remain voluntary and unconsolidated in law; the clinical paradigm has not changed, and there is no mandatory training on intersex-affirming, consent-based care.

The draft Bill would help — if two gaps are closed. Sections 13 and 23 would prohibit surgery on intersex children until they can personally consent, with penalties of six months to ten years' imprisonment. But the exception for "serious danger to health" is undefined, while Thai clinical literature has for decades treated atypical genital appearance itself as psychological harm requiring correction; and section 13(3) delegates the governing criteria to the Medical Council — the profession whose members perform the procedures. Section 14 confers a right to gender-affirming care but refers delivery to existing financing statutes, creating an entitlement without creating a benefit.



Challenge 3: Sex characteristics appear in no Thai law, intersex persons appear in no Thai data

"Sex characteristics" is not a protected ground in the Constitution, the Gender Equality Act, or any other instrument. Intersex persons are protected only insofar as they can be read into categories built for other groups — and the State has declined to read them in.

The Gender Equality Act B.E. 2558 (2015) is the principal mechanism, but section 17(2) permits gender-based discrimination where claimed necessary for welfare and safety, religious rules or national security. The exception is drawn broadly enough to absorb the protection the Act confers.

Where the underlying problem is a nationwide curriculum, a uniform code and a statutory exception, a mechanism requiring each affected person to litigate their own dignity does not deliver equal protection — it rations it by endurance.



Intersex rights activist and Intersex Thailand's Co-founder Nada Chaiajit:

"We are nature. **We are the confirmation that the binary system is fake.** Humans are not born with only two sexes. Humans are not born with only two genders. It's more diverse."

A treaty body recommendation ignored, then repeated. The Committee against Torture expressly recommended in 2024 that Thailand amend the Gender Equality Act to eliminate the section 17 exceptions (CAT/C/THA/CO/2). The provision remains in force — and its structure has been carried into the Government's own 2026 draft Bill at section 22(2), with a catch-all "other legitimate reason" formula that is wider than the original.

Education pathologises, and students pay for it. The national basic education curriculum continues to present intersex variations as biological abnormalities. Binary uniform and grooming codes compel intersex students into gender expressions inconsistent with who they are, with public shaming and forced haircuts used as discipline. A 2014 study by Mahidol University, Plan International Thailand and UNESCO Bangkok surveyed 2,070 secondary students across five provinces and found 55.6% of students identifying as LGBT had been bullied — and 24.5% of students who did not identify as LGBT had also been bullied because they were perceived to be. Bullying tracks non-conformity of body and expression, which is precisely the mechanism intersex students face.

Individual redress is possible but exhausting. Intersex Thailand co-founder Nada Chaiajit's successful 2016 petition against the University of Phayao secured the right to dress in accordance with her gender identity at graduation — through a formal legal process, and with no systemic change in primary or secondary education since.

Named in policy, absent in practice. A 2012 regulation of the Ministry of Social Development and Human Security recognises intersex persons as a social welfare target group. Fourteen years later there is no identifiable programme and no known beneficiary, because no ministry counts the population it names. A State that does not count a population cannot demonstrate that it protects it.



RECOMMENDATIONS



1. On Challenge 1: Legal gender recognition

1.1

In line with the CEDAW Committee Concluding Observations to Thailand (2025), **enact a legal gender recognition procedure based on self-determination, without medical diagnosis, psychiatric assessment or surgical requirement, and amend section 7 of the draft Gender Identity Recognition Act so that recognition is not conditioned on a certificate issued by a third party under criteria set after parliamentary scrutiny.**



RECOMMENDATIONS

1.2

In line with the Human Rights Committee Views in *G. v. Australia* (No. 2172/2012) and its Concluding Observations to Thailand (CCPR/C/THA/CO/2, 2017), **repeal the 2012 regulation of the Department of Provincial Administration insofar as it conditions amendment of an intersex person's civil title on proof of "normalising" surgery.**

1.3

Retain sections 11 and 17 of the draft Bill, **ensuring that intersex variations may be recorded at birth and that a non-binary marker is available, and remove the requirement under section 8(3) of an order of the Juvenile and Family Court before a person already recognised may apply again.**



2. On Challenge 2: Health care across the lifespan

2.1

In line with the CEDAW Committee Concluding Observations to Thailand (2025) and those of the Committee against Torture (CAT/C/THA/CO/2, 2024), **enact sections 13 and 23 of the draft Bill prohibiting medically unnecessary, irreversible interventions on intersex children, and define "serious danger to health" so as to exclude anticipated psychosocial difficulty, parental distress and the appearance of the child's genitalia.**

2.2

Ensure that the criteria governing surgery on intersex bodies under section 13(3) **are developed jointly with intersex-led organisations, and are not determined by the Medical Council alone.**

2.3

Amend the national health security, social security and civil service medical benefit schemes **so that the gender-affirming and intersex-specific services referred to in section 14 are actually covered, and publish the utilisation data annually.**

2.4

Replace the "Disorders of Sex Development" framework in clinical practice and medical education, and **make intersex-affirming, consent-based care a mandatory component of medical and nursing curricula.**

2.5

Establish an accountability and reparation mechanism, including access to remedial care and psychosocial support, **for persons subjected to non-consensual surgery before the entry into force of the Act.**



3. On Challenge 3: Legal invisibility and discrimination

3.1

In line with the Committee against Torture Concluding Observations to Thailand (2024), **repeal section 17(2) of the Gender Equality Act B.E. 2558 (2015) and remove the equivalent provision at section 22(2) of the draft Gender Identity Recognition Act before it is submitted to the National Assembly.**

3.2

Amend the anti-discrimination framework to **include "sex characteristics" as an express protected ground alongside sex, gender identity and gender expression.**

3.3

Remove language describing intersex variations as disorders or abnormalities from the national curriculum, and **adopt anti-bullying measures that specifically protect students with variations of sex characteristics.**

3.4

Collect and publish disaggregated data on intersex persons across health, education, employment and social protection, **and guarantee a defined role for intersex-led organisations in designing that data collection.**



Scan to access the
**Joint UPR submission on the
Human Rights Situation of
Intersex Persons in Thailand**