

Status of Women Profession: Gender Equality of Judicial Occupation in Thailand

Usamard Siampukdee*

Abstract

Law and politics is traditionally male domination. According to the first constitution of Thailand, the women's rights in politics were addressed in order to provide an opportunity for women's accessibility to decision-making. However the number of women legislators is small and incomparable with men in the parliament. Similarly, the advancement of women's position in the public services remains low. Particularly the legal organisations, the employment of women is dominated by the gender discrimination that women are not suitable for legal occupations. Although women appear to serve as judges, state prosecutors and, recently, police officers for interrogation, there are few of them achieve in high-level positions. This paper, hence, aims to investigate women positions and their status in the legal profession. First, it explores the situation of Thai women in justice occupation determined by cultural context and institutional reformation in contesting to the democratization process in Thailand. Second, the paper discusses the gendered identity of women in justice profession through the women's experience at work. And, lastly, this paper examines the advancement of gender equality for women in justice occupations, including the problems and challenges these women encounter with are discussed. The negotiating gendered identity and institutionalization approaches are applied for the analytical explanation in order to emphasize the accords of arguments.

Keywords: gender equality, women, justice profession, bureaucracy, Thailand.

1. Background

Many employment sectors have embraced women's labour participation. Some research on gender stratification in employment in Thailand reported that many Thai women highly engage in various occupations, including the male-dominated career such as science professions and business (Hutchings, 2000; Hanson et al., 1996). Over 70 per

*Lecturer, Faculty of Political Science and Public Administration, Chiang Mai University, Thailand

cent of women in Thailand are under employment in 1990s (Phananiramai 1995: 13) and slightly dropped to 65 per cent in 2006 (NSO, Thailand, 2007: 77) due to the economic recession. However there are the limitations for women's accessibility to politics and bureaucracy, including the discrimination against women to be promoted to the high positions of the organisations.

The gender issue was included in the Constitution of Thailand 1932, the first constitution, promising gender equality through the decree of universal suffrage and equal opportunity for women in political participation. It became effective seventeen years later when Orapin Chaikan won the election in 1949. She was the first female MP in Thai parliament. Regarding areas of politics, women seem to have more opportunity to participate in policy-making comparing to women in bureaucracy. Women MPs and senators are increasing by number to be elected to the parliament. According to Ockey (2004) and Vichit-Vadakan (2008), although the proportion of women MPs is considered small, numbers of women in parliament has been consistently increasing. Since Orapin was elected in 1949, the average percentage of women MPs between 1950s -2000 is estimated 10.4 of total parliament members (Vichit-Vadakan, 2008:38). Still the participation of women in politics is considered low and arguable to inequality of women representatives in politics.

Inside the bureaucracy many bureaus exclusively limit the recruitment to male applicants, particularly in the area of governance and security affairs. For instance, the Civil Servant Act 1975 prevents women to serve as District Governor, District-deputy Governor, Royal Forestry Officer, judge and public prosecutor (NCWA, 1994:6). For the masculinity organizations like military and police bureau, it is clearly stated in the Military Act on Recruitment that women could be received to the military only in the non-combat engagement and they are not eligible for the promotion of General. Similarly to the related law to the administration of police bureau by year 1994, the consideration for promotion was based on non-discrimination basis, except the rank of General that women are excluded from granting (NCWA, 1994: 6-13).

The patriarchic perception in Thai bureaucratic system is examined by the consideration of the seven reservations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Thailand ratified the convention in 1985. These reservations included the right of women in political participation and decision making process, particularly the consideration of women in bureaucratic positions. Though in 1990, Thailand withdraw its reservation on article 7 and 10, particularly the discrimination of employment opportunity and legislative actions (UNDP, 2006: 12). On the contrary, it is hardly denied the invisible ceiling or so-called 'the glass ceiling' which somehow obstructs women to attain the position in command or decision making stage.

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The gender barrier for women in the bureaucratic employment crucially reflects through the proportion of female civil servants in high position comparing to male colleagues. According to Office of the Civil Service Commission (OSCS), the government body functions in promotion and control the standard of public human resource, the number of male and female government officers is not much different comparing by sex. In year 2007, the total number of government officials from all ministries, central and provincial administration, is 1,113, 325. Among these number 548,894 are men and 564,431 are women. Women comprise 50.70% of total government officials (OCSC, 2009). But when looking at some types of service, it appears to be disequilibrium in the gender employment for the justice occupations (see Table 1).

The percentage of women in justice system is quite low comparing to other governmental offices. As shown in Table 1, four types of services for public servants with the huge gap of gender employment between male and female officers are police officers, public prosecutors, judges and autonomous organisation's officers, respectively. Except the autonomous organizations, the male officers dominate the majority of workforce in the organisations. The Police Bureau essentially represents masculinity organization that male officers consisted for over 90% of total employment (93.46% in 2005 and 94.16% in 2007) (OCSC 2008). In the law court more than 70% of 3,813 judges are men (78.80% in 2005 and 77.37% in 2007) (Ibid; Ministry of Justice, Thailand, 2006). Regarding the advancement of women working in the justice system, the proportion of women in these organizations

Table 1. Civil servant in 2005 and 2007 by gender comparison (%)

	2005		2007	
	Male	Female	Male	Female
Police Officers	93.46	6.54	94.16	5.84
Public Prosecutors	83.42	16.58	82.45	17.55
Judges	78.80	21.20	77.37	22.63
Sub-district Administrative Officers	46.48	53.52	43.75	56.25
Provincial Administrative Officers	46.76	57.24	41.68	58.32
Teachers	39.87	60.13	39.13	60.87
Ordinary	38.68	61.32	38.33	61.67
Municipal Officials	39.62	60.38	38.16	61.84
University Officials*	36.73	63.27	36.68	63.32
Bangkok Administrative Officers	36.23	67.37	34.99	65.01
Parliament Officials	32.50	67.50	33.60	66.40
Autonomous Organisation's Officers	24.82	75.18	25.62	74.38

Note: included intellectual and administrative tracks.

Source: Ministry of Justice, Thailand (2006) and OCSC (2008)

Table 2. Government officials in justice system (by type and sex)

Type	2007				2006	1987
	Total	Male	Female	(%) Female	(%) Female	
Judges	3,813	2,950	863	22.63	21.71	6.28
Public Prosecutors	2,854	2,353	501	17.55	17.56	7.47

Source: Promotion and Coordination of Women’s Activities Subdivision 1995 and OCSC 2008

remains low. From 1987 to 2007 the growth of women judges has increased from 6.28% to 22.63% and 7.47% to 17.55% for the public prosecutors (see Table 2). Although it shows the positive tendency of women’s participation in the jurisdiction, the number suggests the incompatibility with male officers. They are considered the lowest among other bureaucratic sections while other government services comprise over 50% of female employers.

Hence this article is an exploratory debate on the achievement of women in justice professions of Thai context.

2. Research Framework and Method

Most of the studies on women in Thailand, in terms of employment, emphasize on the exploitation of women in sex work (Bishop & Robinson, 1998; Jeffrey, 2002; Pettman, 1997; Troung, 1990), women employment in service and industrial sectors (Edward et al., 1992; Elson & Pearson, 1981; Mill, 1997; 1999; Samutakup, Kitiasa & Bhutha, 1994), and women in politics (Iwanaka, 2008; Ockey, 2008; Pongsapitch, 1988). Interestingly, the research on women in justice professions and the legal occupations seems to be neglected comparable to the other areas of gender issues in Thailand. Considering the women’s labour participation in the justice professions, there are a few numbers of women succeed in the high position of juridical organizations which include Courts (Court of Justice, Administration Court and Constitutional Court), Police Bureau, State of Attorney and Correctional Office. I argue that the gender discrimination against women to achieve the high position in the justice institutions indicates the significance of gender equality in Thailand. Despite the tendency of increasing numbers of women employment and the legal measures to promote women’s rights, the impediment women facing in bureaucracy suggests the definite situation of gender relations in Thailand.

This article focuses on women in judicial system. In particular the judiciaries, among other areas of legal professions, they become the personification of justice by the role in court where is dominated by men. The presences of movement towards women’s

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employment in other judicial organizations are included such as Police Bureau and the Office of State Attorney. Particularly, the reforms in Police Bureau that recently recruited female police officers to the interrogation office.

The method of selecting key informants is mainly based on purposive sampling. The selection of eight key informants focused on the women who are positioning in the high ranking of the justice organization and the outstanding case of achievement for women in courts such as the Courts of Justice and the Administrative Court. For the Constitutional Court, since there is no woman as the judge serving this court, it is not included in this. However, some other cases are very interesting that cannot overlook regarding the advancement of women in employment as well as defining women's place in justice system. The key informants are in between aged of 30s to 60s. Most of the achieving top positions women are in their age of 60s. Some are by the process of organizational promotion. Some are by the high profile and granted success in their positions by outstanding personal ability such as case of the President of Rayong Administration Court and the Associate Commissioner of Election Commission of Thailand (NEC). The experience of interviews with both of them delivered great experience of women's struggle in male domination of legal profession in the very critical way. Besides, both have keen background in other legal professions prior to their present position, over 20 years as the state attorney and 30 years as the judge at the court of justice in case of Sodsri. Their experiences vividly implicate the long experience of women involving in justice profession as well as the transferring profession of women in legal system. Another case is Lieutenant Colonel. She is awarded for National Recognition of Women Excellency in the Jurisdiction for year 2009 and also promoted to Lieutenant Colonel J. in the age of 30s which considered early even comparing with male officers. The interesting issue of acceptance of women police in serving for interrogation which started in the last 10 years with rapid opportunity for women achievement, such as her case, and the other movement in Police Bureau could be the crucial indicators about the tendency of women in legal profession in Thailand. For other cases, state attorney and lawyers are examined to discuss the relations among women of different occupations in justice system as well as to elaborate the different experiences of women who are engaging in justice occupation.

In-depth interview is the main method in order to investigate experience and attitude of the selective key informants. It also gives an opportunity for researcher to interact and to discuss further issues with the persons that can be used to compare with the secondary data such as statistic data and reports of previous study. The Interviews are carried by the semi-structural methods. Focus of interview questions are the attempt to examine the role and status of women working in justice organizations in Thailand by looking at the work, life and experience of women. The interview questions are included

the cultural approach towards women in justice system and their difficulties in male dominating organization.

3. The Movement of Gender Equality in Thailand

The development of gender equality in Thailand has been driven by the political process undertaken by the role of monarchy and the development of political economy. An attempt to eradicate gender inequality based on legal structures was first introduced by the King's initiatives. Before the reign of King Mongkut or King Rama IV, woman was subjected to man. Her life was absolutely controlled by her father when they had not yet married. After marriage, woman was owned by her husband who had a mandate to trade her for the payment of his debt. Such power of man over his wife was legalised by the Act of Selling Wife (WLAT, 2009: 62). This law presented patriarchal ideal towards women as cattle alike. Therefore in 1867 King Mongkut amended this law regarding the condition of wife's consent upon the husband's decision (WLAT, 2009).

Another initiative endorsed by the monarchy, often asserted as the first evidence to promote the eradication of gender bias, is the piece of writing by King Rama VII or King Vajiravudh (1881-1925) on 'The Symbol of National Prosperity is Women's Circumstances' (เครื่องหมายแห่งความรุ่งเรือง คือ อสภาพแห่งสตรี) (WALT, 2009: 12). It has been significantly indicated the social suppression over women through the norms and tradition caused by the power of command men had over ruling of law. The criticism of his majesty's observation in the article notes that law and custom were regulated to suffocate and control women for the sake of men's expediency (WLAT, 2009: 12). It also reflects the several legalities of Siam that gave men the power over women's life. Women were inferior to men and they were substituted as men's commodity.

According to the historical review of women's position in the previous part might somehow reveal one of the debates on women development in Thailand as the product of elite movement or the top-down modernization. Generally, this argument claims that the monarchy plays strong role on the promotion of gender equality in Thailand. However it is unfair to simply conclude that the improvement of women's rights in Thailand is by product of elitism. Many Thai feminists definitely reject it.

Despite the claim on the contribution of elitism to the eradication of gender inequality on Thailand, I argue that, the factor stimulates the changes of women's rights in Thailand is women's movement in policy participation. In the agricultural-based society women's role was designated within the household. When the economic condition is changed, the industrial economy requires the labour mobility to facilitate the productive activities. in which women have been integrated to the labour force. Under such economic

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condition, women bare dual jobs as housework and earning some money. Meanwhile women grow the awareness of women's role and demand to participate in decision-making. The interest of social participation is emerged not only from the upper class women or working women in the city but also being aware among women in the rural area (Homgesorn, 1992: 27), especially the active role on community development is to be observed by women's initiatives in local politics.

Heyzer (1986) elaborates the impact of industrialization essentially integrated women into the high participation in workforce that deprived women from the household domain to be more independent due to their ability to earn income. The role of women in productive system under industrialization is considerable a possible change of women's relations with their family and community, particularly in terms of labour mobility in women workers. On the other hand, the integration of women in production process renders women's movement to participate in policy-making process, beginning from the centrality of women's concerns such as social welfare, family planning, health, and community development. Such movement, hence, cannot be neglected from government response marked by the increase of women's labour participation and their potential roles in policy engagement.

In 1968 the group of women lawyers formed the association called 'Women Lawyers' Association of Thailand' to represent women's demand on the reforms of law, particularly to include the equal rights between men and women in the constitution. The demand of WLAT was ignored by the military government until the political uprising in 1973 that led to the democratic government and the drafting of 1974 Constitution. According to this constitution, equality between men and women, as well as the protection of disability, was mention together with the proposal of revising family law within 2 years. This is not the first time that gender equality has been manifested in the constitution of Thailand. The first constitution in 1932 dedicated one article to the promotion of equality between men and women through the universal suffrage. Thailand claims to be the very first country in Asia that allows women's rights in political participation. In fact, the opportunity for women's candidates was still limited and the percentage of women who succeeded in political position are still low, 8% at both local and national level in 1997 (Somsawasdi and Theobald, 1997: 426) and 9.75% in 2008 (Bureau of Gender Equality Promotion, 2009). Nevertheless, the 1973 Constitution was removed after the coup in 1976 and the issue of gender equality was dismissed from the new constitution (Somsavadi, 1980: 14-16). It took over 20 years by women's groups to demand the equal opportunity for women in achieving political position to the consideration of drafting constitution while the proportion of women in the high positions in bureaucratic system remains on overt and covert debates.

Later in 1990's the women frontier called 'the Network of Women and Constitution' purposed the active engagement in drafting the constitution at the initial process. This was acknowledged as one of the most democratic constitutions of Thailand. It allowed people's participation in drafting and reviewing the constitution. However the achievement of women's participation in drafting the constitution appears on the Section 30 which ensures the gender non-discrimination on legal basis and the Section 80 that emphasizes state's commitment on the protection of equal rights between men and women (Asian Human Rights Commission, Thailand, 2006; ADB, 2002: 40).

Table 3. Proportion of female officers in executive position: 1993-2004

Year	C 9-11			Percentage of Female			
	Total	Male	Female	C9-11	C9	C10	C11
1993	417	373	44	10.55	12.66	8.48	4.35
1994	435	391	44	10.11	13.50	6.32	4.17
1995	441	390	51	11.56	16.67	5.65	4.17
1996	449	392	57	12.69	15.23	10.44	4.17
1997	457	393	64	14.00	17.89	10.75	0.00
1998	468	405	63	13.46	17.81	9.18	4.00
1999	470	411	59	12.55	16.19	8.59	8.00
2000	477	411	66	13.84	17.65	9.64	8.00
2001	472	405	67	14.19	16.47	12.12	8.00
2002	455	374	81	17.80	21.31	14.52	8.00
2003	487	385	102	20.94	25.00	18.01	9.38
2004	496	396	100	20.16	24.42	16.43	9.68

Source: Bureau of Gender Equality Promotion, Thailand 2009

Although the gender equality was meant to be upholding by the constitution, the women's participation in politics and state's affairs has been criticized on the small pace of improvement. According to Table 3, the proportion of women in the executive positions by focusing on C9 (the lowest executive position) to C11 (the highest executive position) from year 1993 to 2004 has been slightly changed. By the commencement of the 1997 Constitution approximately 11.78% of women comprise C9-C11 officers. This number slightly increased less than 3% during 1998-2002. The average growth of women's proportion of C9-C11 officers at that period was 14.38%. In 2005 women executives at C9 increased to 24.4% while they comprised of 16.4% and 9.7% for C10 and C11 respectively (UNDP, 2006: 27). However the Office of Women's Affairs and Family Development on the situation of Thai women in 2007 reported that women participation and their opportunity to involve in decision-making is still unequal to men, concerning the proportion of women and men in supervisory level of private, public, and independent

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organizations (Office of Women's Affairs and Family Development, 2006). For example, women comprised less than 10% of total committees in the executives' board of the independent government agencies (Office of Women's Affairs and Family Development, 2006: 15; UNDP, 2006: 17).

Table 4. Government officials 1990 and 2005 (by level and sex)

Level	No. of Male Official		No. of Female Official		% of Female Official	
	1990	2005	1990	2005	1990	2005
11	25	28	0	3	0	9.7
10	274	173	18	34	6.6	16.4
9	367	195	45	63	12.2	24.4
8	1,928	8,778	492	5,944	25.5	40.4
1-7	143,670	133,869	157,113	211,210	51.7	61.2
Total	146,264	143,043	157,668	217,254	51.9	60.3

Source: Promotion and Coordination of Women's Activities Subdivision 1995 and UNDP 2006

The situation of women in the bureaucracy has been improved since 2002 and onwards due to the implementation of related laws. First is the establishment of Chief Gender Equality Officers (CGEOs) in 2001. CGEOs are the important measure to monitor the integration of women in all government agencies to provide women an equal opportunity to policy participation (Kusakabe, 2005: 50). Second, the Office of Women's Affairs and Family Development in 2003 was reestablished by the National Commission on Women's Affairs. Lastly, the non-discrimination basis of employment in bureaucracy has been effectively enforced by the constitutions that facilitate an opportunity for women to be recruited in several bureaus. The integration of women in the state's organizations is arguable to be the necessity to advance gender equality through the engagement of women in parliament and in the high level of bureaucracy (Acker, 1990; Cockburn, 1991; True and Mintrom, 2001). For example the practitioner's stages of public servants C1-C7, the numbers of state officers are dominated by women and the tendency of women being recruited is constantly increasing (see Table 4). The increasing recruitment of women to public service is the steppingstone for women's opportunity achieving the high positions of bureaucracy in the future (see Table 5).

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Table 5. Selected civilian workforces in high-level positions (unit: person)

Position	2007			2006	
	Total	Male	Female	(%) Female	(%) Female
Ordinary Civil Servants	1,024	859	165	16.11	17.31
Senior Executive	514	400	114	22.18	23.14
Provincial Governor	75	74	1	1.33	1.41
Vice Provincial Governor ¹⁷¹	171	163	8	4.68	6.59
Deputy Governor	75	75	0	0.00	0.00
Inspector-General	116	93	23	19.83	19.83
Ambassador	63	53	10	15.87	21.43
Ministerial Internal Auditor	10	1	9	90.00	100.00
Police Officials	450	446	4	0.89	0.00
Commissioner-General	1	1	0	0.00	0.00
Deputy Commissioner-General	9	9	0	0.00	0.00
Assistant Commissioner-General	14	14	0	0.00	0.00
Commissioner	44	44	0	0.00	0.00
Deputy Commissioner	146	146	0	0.00	0.00
Commander	236	232	4	1.69	0.00
Judges	70	68	2	2.86	8.62
President of Supreme Court	1	1	0	0.00	0.00
Vice-President of Supreme Court	3	3	0	0.00	0.00
Senior Chief Justice of Supreme Court	25	24	1	4.00	8.00
Chief Justice of Appeals/Region	31	30	1	3.23	15.79
Chief Justice of Civil/Criminal Court	10	10	0	0.00	0.00
Public Prosecutors	76	76	0	0.00	0.00
Attorney General	1	1	0	0.00	0.00
Deputy Attorney General	6	6	0	0.00	0.00
Inspector General	11	11	0	0.00	0.00
Director-General	58	58	0	0.00	0.00

Source: OCSC 2008

4. Debate on Gendered Identities in Bureaucratic Occupation and Justice Professions

Historically, men serve state services in the very long history of Siamese kingdom since Ayudthaya to Rattankosin periods. The prestige of nobility has been preserved in the

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bureaucratic structure through the mandate of law and power relations within male bureaucratic nature. However, the institution of traditional bureaucracy was drastically challenged during the reign of King Rama V that introduced the formation of modern bureaucratic system. One thing that never changed among the changes is the male's dominance in bureaucratic institutions under the gendered perception that men exclusively serve and sustain state affairs not women. State bureaus appealingly reflect the homogenous environment of male sphere that addressed by Martin and Jurik towards the gender boundaries in profession. Martin and Jurik (1996) elaborate the paternalism in law and justice occupations in terms of production and reproduction of work organization in denying women's abilities due to the maintenance of gender boundaries of masculinity and femininity. In some areas of employment for state officers, thus, assert the gendered eligibility of applicants for certain jobs and certain positions.

Many bureaucratic positions were preserved exclusively for men such as Deputy-district Governor, judge and state prosecutor. For example, women were not permitted to apply for judges according to the Judicial Service Acts 1939, 1942 and 1948 (Government of Thailand, 1939: 1118-1120; 1942: 59; 1954: 1563). Until the enactment of Constitution of Thailand 1974, the gender discrimination of employment and promotion in government bureaus was eradicated due to the movement of liberalism and democracy in Thailand by the people uprising against dictatorship regime in 1973. This political movement eventually fostered the improvement of women's opportunity in state employment. First, the long-term development plan for women (1983-2001) known as the 20 years plan was introduced to advocate women's opportunity in the decision-making positions by targeting at 30% in comparing with men counterparts. Second, in 1993 the cabinet's resolution decreed the amendment of governing act regarding the prohibition of women to the appointment of Deputy-district Governor, in response to the removal of pending Article 11 of CEDAW on equal opportunity for employment in 1990 (Promotion and Coordination of Women's Activities Subdivision, 1995).

Moreover the cabinet's resolution widened door for women to be accepted to the governor training school which exclusively accepted male students. The non-discrimination of gendered employment in the male dominant occupation further improved in the various bureaus. In 1994 the Royal Police Bureau announced Police Bureau Order No. 514/2537 of 13 May 1994 to assign women for investigating officers mainly on the duty involving women and children affairs such as rape cases and human trafficking (Bhudthanurak, 2005: 55). It was the first time that women were recruited to be the investigating officers which was once considered unfit with women's physically and mentally capacities. Further the effort of improve women's employment in the Police Bureau was undertaken by the acceptance of 100 women to police cadet school in year

2009 (Bhudthanurak, 2009). It aimed to train female police officers to serve the cases related to women and children affairs.

4.1. Gender equality and advancement of women in justice profession

Equality before law is repeatedly claimed in the practice of law. In doubt, there are critiques towards the fairness and equality of implication of law whether all is equal as it has been asserted in terms of justification of law based on the mandate of who is drafting the law and power of access to legality. The school of feminist jurisprudence addresses their statement on 'the premise of law's maleness' (Barnett, 1998: 7; also see Gelsthorpe & Morris, 1990; Rhode, 1989) that it eventually perceives women as the others as well as implicates women to invisible subjectivity. Similar critic is emphasized by Ngaire Naffine (*In* Barnett, 1998: 79) in the very appealing explanation that:

The proposition that law is imbued with the culture of men moves beyond the claim that law is made by men and therefore tends to entrench their position of dominance. Law is conceived through the male eye. It represents the male perspective. It starts from the male experience and fails to recognise the female view [...] Law is both male-dominated and full of biases [...].

Historically, women were not admitted to the law schools and women faced the long march of struggling to change the perception that woman was not suitable for law. The cultural aspect on women's position in justice profession thus had allowed the domination of male in legal occupations like judges, police officers, lawyers, public prosecutors, probation officers, etc. The occupational segregation of legal practitioners against women is argued by the examination of the following elements. First, due to the preservation of some professions before 1975 that exclusively accepted only men such as governor and judge that required the degree in law (or political science in case of governor), women thus lacked of incentives to study law because they could not achieve the promising position in their career. Second, law represents patriarchal characteristics. Law is a critical form of power manipulated by men to exclude and to control women (Bhudthanurak, 2009). The substance of law, however, has been argued the discourse of patriarchy in the subject of law. Hence some female law students influenced by such patriarchal body of law and eventually absorb the justification of paternalism. In the past law was generally perceived to be the science of men so that there was a small number of women studied law (Piromkul, 2009). This conception has been changed after the improvement of gender equality in several series of law reform. Particularly, the removal of limitation of the judiciary recruitment against women endorsed the motivation for more women to study

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law (Suthinee, 2009; Thaniya, 2009).

Women are considered new faces in courtship. The recognition of women judiciary and public prosecutor gradually developed whereas the opportunity for women to these professions appears to be low comparing to male counterparts. Even though the tendency of women getting employed has been increasing, women comprise less than a quarter of total workforce serving as public prosecutors and judges (see Table 6).

Furthermore the implication of gender equality regarding legal professions becomes distorted in terms of promotion. According to the interviews with women judges, including conversations with male judges, the promotion of women to the high position in the legal organizations, gender bias against women is embedded in the appraisal system. Hundred years of founding Royal Thai Court, women's history to participate in court as judges began in 1970s. Over 30 years, none of women awarded the President of Supreme Court. During those years a few number of female judges had been designated to the Supreme Court. Until recently a female judge became the Chair of Judges at Supreme Court. The small number of female judges to be promoted to the Supreme Court causes by the customs of promotion and the seniority system. The promotion process of courts proceeds through the results of recruiting test, written and oral exams, at the commencement of employment for judgeship (Pongchai, 2003). Afterwards the promotion will be considered by the seniority of candidates based on merit selection (Kittikhunpairote, 2009; Sattayadham, 2009; Sethabutra, 2009).

Table 6. Public prosecutors and judges : 1987 and 2007 (by sex) (unit: person)

Occupation	1987			2007		
	Female	Male	Total	Female	Male	Total
Public Prosecutors	93 (7.00%)	1,244 (93.00%)	1,337	501 (17.55%)	2,353 (82.45%)	2,854
Judges	62 (6.00%)	986 (94.00%)	1,048	863 (22.63%)	2,950 (77.37%)	3,813
Total	155 (6.50%)	2,230 (93.50%)	2,385	1,364 (20.46%)	5,303 (79.54%)	6,667

Source: Promotion and Coordination of Women's Activities Subdivision, Thailand (1995:143) and OCSC (2008)

When female judges recruited through this process began in 1975, there were just a few women achieving the President of Supreme Court. First, at that time, there were not many women attended the examination for judges due to the perception of gender barrier that discouraged them (Pongchai, 2003). Second, despite the claims by judges I

interviewed with about the non-discrimination system of promotion as mentioned above, I argue that, since women participated in the court after men, women have been situated in the disadvantage situation undermined by the promotion system. Unless the female judge enters the court in her young age and many women are increasing to pass the examination with high score, it is a strong tendency of having more opportunity for female judges to be succeeded as the President of Supreme Court. The case of Justice P., for example, she was recruited with very high score of examination when she was very young. This is an opportunity for her to be appointed to the Chair of Judges at Supreme Court (Kitikhunpairote, 2009). Taking her model and considering the growing number of young female judges as well as the female law students, there are possibilities for increasing number of women to success the high positions in courts in the near future.

For the autonomous governmental organizations such as the Administrative Court and the Constitutional Court, there is an absence of women's representatives in the top positions of these organisations. In the case of Administrative Court, 3 women have achieved as the President among 7 Administrative Courts of First Instance while the proportion of women as Vice President, Senior Judge of Chamber and Judges of the Administrative Courts of First Instance is quite compatible with male colleagues. Though women's status in the Administrative Courts of First Instance generally seems to be equal with men, none of women could pass to the Administrative Supreme Court (Setthabhuthra, 2009). Through the experience of woman taken the test for the judge of Administrative Supreme Court the covert measures of recruitment found in jeopardizing the non-discrimination basis. She was the only one woman who could pass to the interview which conducted to achieve resolution from the Judges of the Administrative Supreme Court (see Section 15 in the Administrative Court Act 1999 for details about recruitment process). There were 13 of them, all men. In order to pass, the candidate must respond the questions based on judicial practice and legal implication to satisfy the examiners' consensual. She attended the interview session for approximately an hour and a half confronting, accordingly, patriarchal pressures. Finally she failed while the person who passed attended 15 minutes of interview with questions about administrative affairs. Thereafter there is no female candidate pass to the interview session, though many women keep applying for the position of Judges at the Administrative Supreme Court.

On the other hand, the Election Commission of Thailand is the autonomous organization that operates and monitors the fair and clean elections. It becomes powerful and key political organization of Thailand that legitimates to impeach politicians and political parties found guilty of violating election law. The authority of the commission mainly applies through juridical instruments as well as the members of commission are tempted to be recruited from professional experiences on legality. All of them were judges

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before joining the ECT. Since the commencement of the commission in 1997, none of women had been participated in the National Board of Commission. Until 2006 the Election Commission of Thailand appointed Mrs. Sodsri Sattayadham to be the first woman joining the board. However, it does not implicate that woman is genuinely accepted by her male co-workers. Sodsri shared her experiences as below (Sattayadham, 2009):

Some people say that a female commissioner is only the garnish. It is just something to colour up politics. There are too many male commissioners so that it is needed to add a woman in the commission. These people don't realise my qualifications that persuade the justification of the Commission of Senate and the Council of Supreme Court to appoint me. When I used to work as the judge, the male colleagues always perceived me as male counterpart. They treated me like male friends. Sometimes we went on the bus trip to attend training at provinces away from Bangkok. Men occupied all the seats and let women hanging on the rail. So, we, women, asked them whether they meant to let women standing like this. What they responded was they didn't see any woman on the bus but men. An important thing we, women, have learnt is when men benefit, they don't recognise the gender differences. But when they become disadvantage, they assert the gender basis such as women are not eligible to be promoted to the high position.

4.2. Gender identity in contesting cultural and institutional barrier

The gendered division of labour is a concern of the analytical discussion in judicial work. First is the issue of court allocation. Women are mainly dispatched to the Court of Juvenile and Family while male colleagues are appointed to the Provincial Court. The discrimination on dispatches has been improved after 1980. More and more women are appointed to the provincial courts and they have proved of doing as well as male judges. Such observation is supported by Justice P's view that (Kittikhunpairote, 2009) :

As the judge, woman can make the judgment even to male counterpart. In terms of dispatches to the provinces, however, the committees certainly concern the safety of women. But I think it is an issue of security provision. If something wrong would happen, it doesn't matter whether the target is male or female judge. Furthermore, judicial judgment applies with intellectual not physical strength. The attitudes towards capacity differences between male and female judges, thus, have been gradually changing.

Nevertheless, the gendered division of labour of female judges within the juridical domain retains to her position at the Juvenile and Family Court Division. It is her own decision, though, as she declares. During the time of choosing among 9 divisions of the Supreme Court, she had precedence over others to make the preference. Then she chose the Juvenile and Family Court Division regarding her specialty and long experience in working at the juvenile and family courts. Could it be implicated to personal choices or the command of gendered identity? I doubt with it. This case pinpoints the recognition of women themselves on the gender litigation for women in legal professionals. According to interviews I made with female judges and lawyers, these women usually showed frustration over the criticism about women's judicial ability as “ผู้หญิงทำได้แต่เรื่องผัวเมียๆ” – women are capable to do only issues of husband and wife or family's affairs.

Further argument is the gender stereotype on collective behaviour of female judges. Female judges have been illustrated to be soft-minded, sympathetic and tend to favour sisterhood upon sexual violating cases. On the contrary, the conversations with female judges, public attorney and lawyers indicate the irrelevance of gendered identity towards female judges. Interestingly, female judges perform strictly judgment mediated by existing evidences and legal codes while male judges are found to be casually negotiable in making the verdict. The conceptualization of women as a group of collective behavior, thus, dissents the distinct of women's experiences that vary based on their values, perceptions and differences of social and cultural backgrounds. Hence proclaiming of women's judgment in legal process is determined by their maternal alike becomes falsity.

The empirical evidences suggested the variation of women judges towards to women position on justice in comparison with judgment of male judges as mentioned previously. In accordance with the argument of Berns against Carol Gilligan's explanation on the gendered ethic and judgment, Berns (1999) claims that gender differences are not relevant to the substance of legality and the cognition on law of the judges. On the contrary, the distinguish judgments are constituted of personal background, social and cultural experiences including the sets of values and beliefs that person is influenced to his/her judgment (Berns, 1999: 196-199). In fact the power of negotiation in the implication of law reflects potentially distortion of judgment rather than the gender stereotype while the discourse on stereotyping identity towards women functions in the justification of male domination in defying judgment.

Working culture of women in male dominating organisation is also found to be sceptical. Sometimes, the pressures of men-dominated work cultures influence the women's adaptation in order to survive. The features of their behaviour could be vary and dynamic. Some cases, women emulate culturally dominant forms of masculine behaviour. They refuse protection or special duties and struggle to demonstrate their quality to men

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co-workers by engaging in masculine behaviour (Halford & Leonard, 2006: 43). These women adopt forms of maleness in negotiating organisation's power and to gain acceptance from male colleagues and their superiors. From the experience of female police officer, when she first came to the police station the male police officers called her 'flower of the station'. Accordingly she had to prove herself to be as tough as male colleagues and acted masculine to gain respects and avoid risk of sexual sensitivity at work (Bhudthanurak, 2009). On the other hand, the presence of femininity in workplace appears to be passive, supportive, and emotional. In some cases women maintain femininity either to utilize the advantage of femininity or to prove their capabilities by the appliance of femininity. This expression, sometimes, refers to situations in which some women make use of femininity for excusing them from difficult jobs. Because men's protection of women appears to be helpful, women may welcome relief from hard assignments such as using the excuse for not being dispatched away from family or going to risk area or staying night shift at the station, etc. But some women foster femininity to benefit their profession when it fits their strategies such as an account on details, high morality and accepting follower's role occasionally for the better of managing relations with male counterparts (husband-wife or superior-inferior), for instance. Therefore woman's identity is the negotiating outcome of flexibility in implication of power relations and situation that women correspond differently depending on each context (Cameron, 1997: 49; Chunn & Lacombe, 2000: 17). It is pragmatic and a result of selective process to produce multiple identities responding to gendered hierarchy that constructed by cultural values and representations of the organisation.

5. Conclusion

One of the indicators for human development is the gender equality. It has been emphasized in the international recognition in the Millennium Development Goals (MDG) that the gender equality implies to the national well-being. However the discourse of women inferiority in physical and intellectual states remains sceptic in the debates on gender identity and gender division of labour. The argument on women's participation in justice process or their capabilities to perform legality activities depending on their constraints of femininity is debated by feminists jurisprudence on the male social construction based on subjectivity of feminised division of labour through concept of law and justice. According to Somsavasdi (2007: 53-54) on her discussion about the women and justice, Somsavasdi pinpoints the discourse of social values that construct women's imaginary to be passive and backward. Although the position of women is constructed to be moralistic and women have the strong role on upholding social institutions, at the same

time, women are given the image of lacking the proper attitude on justice and cannot rule fairly. Therefore they (women) must be excluded from power and politics for the social benefits as women are not suitable to rule and perform power. Hence women are excluded from the perception of justice. Based on male's standards and differences of gendered identity, it is caused by the lack of opportunities to gain experiences in lives which endues with developing concept of Justice.

Findings from the research suggest that the opportunity of women in career or promotion in the juridical institutes commanded by the seniority system rather than gendered influence. However, in the high position of the institutional structure, it has been found that the gender bias is hidden underneath the merit system such as the case of the Administrative Court and the National Election Commission. Women equality must be uphold not because it is the symbol of national prosperity or the indicator for human development. But it is because women have been proving to be recognized their ability and intellect to be equivalent with male counterparts. The gender discrimination toward women constructed by the illusive gender identity that women are not suit in law is proved to be wrong. Encountering such stigmatism, women call for their rights to the accessibility of law, not as the passive objects in the practice of law but as the person in command of law itself. As emphasized by Feinman (1994: 135-146), the justification of 'discriminatory treatments protected women' apparently creates men's power to command in both public and private spheres. Therefore law must be reconceptualised by the basis of non-gender bias.

Contesting democratization by the improvement of women in politics, on the other hand, could signify the correlation of advancement for women in judicial occupations, profoundly contributions of social justice. Recently women's movement on the implementation of promises for the equal proportion of women in the high positions of bureaucratic and government agencies asserted in Constitution of Thailand 2007 Sections 30, 87, 97, 114 and 152 that underline the state's commitments on upholding equal proportion of men and women in all levels of policy participation (see Constitution of Thailand, 2007). The implication of constitution has been enhanced to cover the guarantee of opportunities for female officers in the high positions of government agencies equally to male counterparts in order to enforce gender equality's agendas effectively. However, the consensus of women's movement turns sour as some groups of women demand for even sharing of women in state's position at 50/50 with men while others oppose this request due to the consideration of fairness based on merit competency.

In addition, the collective movement of women's groups is an important factor in driving the policy agenda on women's issues. The lack of strong unity among female legislators, in particular, affects on performance and policy agendas for pushing gender

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equality in action. In the area of women in parliament, somehow, indicates the similar situation of women in courts. Though the number of female judges has been constantly increased, the possibility in achievement of high position for female judges is still on the scrutiny. It can be argued on the issue of glass ceiling whilst the support among female professionals themselves in promoting other women's advancement appears to be sceptical.

Lastly, the development of women's status in judicial professions critically relates to the improvement of social justice as a whole. The equality of legal occupations and status of women in justice system must be perceived in the holistic view. Providing more opportunities for women is needed to promote the conceptualisation of justice for women. Do women need to be developed their concept of justice to be same, as men? The cultural feminists would oppose such conclusion and I do agree with the differentiation in justifying justice, particularly the variation in defining the concept. Nevertheless, as justice is subjectivity, the women's morality and feminine view on justice has the crucial implication of just in order to deliver justice in place.

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